



County Hall
Cardiff
CF10 4UW
Tel: (029) 2087 2000

Neuadd y Sir
Caerdydd
CF10 4UW
Ffôn: (029) 2087 2000

SUPPLEMENTARY PAPERS

Committee	ECONOMY & CULTURE SCRUTINY COMMITTEE
Date and Time of Meeting	MONDAY, 20 SEPTEMBER 2021, 4.30 PM
Venue	REMOTE VIA MS TEAMS
Membership	Councillor Howells (Chair) Councillors Henshaw, Gordon, Gavin Hill-John, Lay, Parkhill, Robson, Sattar and Stubbs

The following papers were marked 'to follow' on the agenda circulated previously

4 Replacement LDP - Vision, Issues, Objectives, Integrated Sustainability Appraisal - Appendix B (Pages 3 - 12)

For Members to undertake pre-decision scrutiny of the report to Cabinet

5 Indoor Arena FBC and Development Agreement (Pages 13 - 1432)

Appendix 2 and 7 of the report are exempt from publication as they contain exempt information of the description contained in paragraph 14 and paragraph 16 of Part 4 of Schedule 12A of the Local Government Act 1972. The public may be excluded from the meeting by resolution of the Committee pursuant to Section 100A(4) of the Local Government Act 1972 during discussion of this item.

For Members to undertake pre-decision scrutiny of the report to Cabinet

6 ISV Update (Pages 1433 - 1740)

Appendix 1 and 5-11 of the report are exempt from publication as they contain exempt information of the description contained in paragraph 14 and paragraph 16 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972. The public may be excluded from the meeting by resolution of the Committee pursuant to Section 100A(4) of the Local Government Act 1972 during discussion of this item.

For Members to undertake pre-decision scrutiny of the report to Cabinet

This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg

Davina Fiore

Director Governance & Legal Services

Date: Tuesday, 14 September 2021

Contact: Andrea Redmond, 02920 872434, a.redmond@cardiff.gov.uk

Replacement LDP Pre-Decision Scrutiny September 2021

Page 3



Agenda Item 4

Overview of LDP

- Statutory requirement
- Sets out policies and proposals for use of land within city and provides a framework to assess planning applications against
- Current LDP adopted in 2016
- Requirement to review LDP every 4 years
- Council agreed with Welsh Government a 3.5 year timetable for review of the LDP in March 2021
- Preparation of Replacement LDP launched in May 2021

Page 4



Consultation

- First stage in consultation process
- Feedback sought on draft Vision & Objectives & ISA Scoping Report
- 11 draft Objectives responding to issues
- Statutory requirement to appraise potential impacts of LDP through ISA
- ISA 'All in one' approach– All assessments in one bundle

Page 5



Consultation Process

- Measures identified to reach wider audience through user friendly approach
- New bespoke Rep LDP website
- LDP branding- Bespoke, linked to One Planet/Active travel style
- User friendly online survey - future of the city
- Short film, Virtual Consultation Room
- Use of Social Media
- Virtual launch events with Members, Community Councils and Public
- LDP Team available to respond to queries provide more information

Page 6



Consultation Results

Headline results from on-line survey based on 1,215 responses:

- Support for **lower levels of housing growth**
- Strong preference for use of **brownfield sites**
- **Improved access to green space** identified as top priority for improving health and wellbeing
- **Creating 15 minute neighbourhoods, access to green space and active travel** top 3 approaches in responding to the pandemic
- Provision of **community facilities, reducing crime** and providing **good cycling routes** identified as top 3 priorities for improving neighbourhoods
- For the Vision, **Tackling climate change, healthier environments, and protecting green infrastructure** were ranked top 3 in order of importance



September Cabinet Report

- Recommendation for Council to **approve Replacement LDP Vision and Objectives and ISA Scoping Report:**
- Appendix 1 :Revised Vision and Objectives taking into account comments received
- Appendix 2: ISA Scoping Report taking into account comments received
- Appendix 3: Summary of consultation and engagement findings
- Appendix 4: Summary of ISA of LDP Vision and Objectives
- Appendix 5: Engagement Plan for next stage of consultation on strategic options

Page 8



LDP timetable: Next Steps

March 2021	The Council and Welsh Government agree the Delivery Agreement
WE ARE HERE	Consultation on draft vision/issues/objectives & draft Integrated Sustainability Appraisal and Call for Candidate Sites
Nov 2021 - Feb 2022	Consultation on strategic Options
Oct 2022	Consultation on Preferred Strategy
Oct 2023	Consultation on Deposit Plan
March 2024	Submission for Examination
March - Sept 2024	Examination
Sept 2024	Inspectors Report
Oct 2024	Adoption by Council



Targeted Consultation/Engagement Approach

- Next consultation stage on “**strategic options**” in autumn

(subject to restrictions)

Page 10

- Additional targeted consultation/engagement through:
 - Range of themed Focus Workshops
 - Public drop in face to face events
 - Engagement with stakeholder groups and networks



Population and Household Projections

- Produced by WG and a starting point for LPAs to use in preparing LDPs
- Adopted LDP projections project a population of 403,000 in 2026 & latest WG projections project a population of 373,000 in 2026
- Caution must be exercised when making comparisons as projections are based on past trends and therefore inherently uncertain

Page 11

Downward trend due to lower fertility rates, increased mortality, less rapid increases in life expectancy and net loss through internal migration

- Evidence base work in progress on reviewing these latest WG projections and identifying options for levels of housing need for the replacement LDP
- Consultation on these options planned for autumn 2021



Any questions?



CYNGOR CAERDYDD
CARDIFF COUNCIL

ECONOMY & CULTURE SCRUTINY COMMITTEE

20 SEPTEMBER 2021

INDOOR ARENA FULL BUSINESS CASE: PRE-DECISION SCRUTINY

Appendices 2 -7 inclusive of the report to Cabinet, attached at Appendix A, are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of Part 4 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of the Report

1. To give Members background information to aid scrutiny of the report to Cabinet on the Indoor Arena Full Business Case, attached at **Appendix A**, due to be considered by Cabinet at their meeting on 23 September 2021.
2. Members should note that **Appendices 2 -7** are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

Scope of Scrutiny

3. At their meeting on 23 September 2021, the Cabinet will consider a report that formally appoints the Live Nation consortium as the successful bidder and seeks:
 - i. approval of the Full Business Case for delivery of the Indoor Arena and replacement Travelodge Hotel
 - ii. approval for the appropriation of land for planning purposes required for the delivery of the Indoor Arena
 - iii. in principle authority to make a Compulsory Purchase Order to acquire land to facilitate the delivery of the Indoor Arena and wider Atlantic Wharf masterplan
 - iv. approval for the delivery of an enabling works package

- v. approval for the extension of the Council's cost underwrite.
4. During this scrutiny, Members have the opportunity to explore:
- i. The full business case
 - ii. The rationale for the appropriation of land
 - iii. The reasons for the proposed Compulsory Purchase Order
 - iv. Costs to the Council
 - v. Whether there are any risks to the Council and how these will be mitigated, including
 - i. Whether the Council can meet its existing obligations, re land appropriation
 - ii. Whether the Council can meet the obligations set out in Conditions Precedent
 - iii. Whether the Council can meet the obligations arising from Contract Award
 - iv. Whether the Council will realise the capital receipts required to fund their Capital Contribution
 - v. The risks resulting from the Council investment being front-loaded
 - vi. How risks will be monitored and managed moving forward
 - vii. The impact of the award of contract on the Council's investment in the Red Dragon Centre
 - vi. The financial and legal implications
 - vii. The timeline and next steps for delivering the indoor arena project
 - viii. The recommendations to Cabinet.

Structure of the meeting

5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendices 2-7**.

6. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development), Neil Hanratty (Director of Economic Development), and Chris Barnett (Operational Manager – Major Projects) will attend. Members will be able to ask questions to the panel of witnesses.
7. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

Background

8. In **July 2017**, the Council's new Administration set out a policy programme and associated delivery commitments entitled 'Capital Ambition', which included a commitment to:
'Prioritise the delivery of a new Multi-Purpose Indoor Arena in the best possible location to ensure it can attract premier national and international events.'
9. At their meeting on **15 February 2018**, Cabinet approved the selection of the Atlantic Wharf site as the preferred location for the indoor arena project. Atlantic Wharf consists of the County Hall site, owned by Cardiff Council, and the Red Dragon Centre, owned by British Airways Pension Fund.
10. At their meeting on **15 November 2018**, the Cabinet resolved to meet the Council's due diligence costs and to underwrite the design and pre-development costs incurred by the Developer and Landowner. Cabinet also resolved that independent advisors be procured to provide necessary support for the project.
11. In **February 2019**, as part of the budget setting process, Council approved an affordability envelope in the Council's Medium Term Financial Plan to support delivery of a new Indoor Arena including financial provision for the acquisition of the Red Dragon Centre site in the current budget.
12. At their meeting on **11 July 2019**, the Cabinet noted the preliminary due diligence set out in the appendices to the report, and delegated authority to:

- i. enter into a Memorandum of Understanding relating to the acquisition of the Red Dragon Centre site
- ii. deal with all aspects of the procurement of a developer/operator consortium for delivery of the new Indoor Arena subject to the approval of the preferred bidder by Cabinet at a later meeting.
- iii. commission an independent review of the Full Business Case, including the implications of any land assembly requirements, to be presented back to Cabinet as part of its consideration of the Full Business Case in due course.

13. At their meeting on **19 December 2019**, the Cabinet approved:

- i. the proposed procurement strategy
- ii. the new financial strategy for the Indoor Arena, which is within the financial envelope approved by Council in February 2019
- iii. the acquisition of the Red Dragon Centre
- iv. delegated authority to the Director Economic Development to acquire other land associated with the Indoor Arena development.

14. At their meeting on **26 November 2020**, the Cabinet approved Live Nation as the preferred bidder developer/ operator consortium and agreed to enter into a Pre-Contract Service Agreement. Cabinet also delegated authority to the Director of Economic Development in consultation with the Cabinet Member for Investment & Development to:

- i. negotiate Heads of Terms with the Preferred Bidder in relation to the Development Agreement
- ii. complete land acquisitions including the negotiation and completion of the Agreement with ABP to release the restrictive covenant and permit the Arena to be built adjacent to the dock feeder and the acquisition of the freehold interest in the former Pizza Hut site on Hemingway Road
- iii. negotiate terms with Travelodge and to return to Cabinet for approval of an Agreement for Lease, or as necessary, serve notice on Travelodge to avoid Compulsory Purchase Order implications at the break date.

Report to Cabinet

15. The report to Cabinet is attached at **Confidential Appendix A** and has eight appendices:

- **Appendix 1** - Overview of the Procurement Process
- **Confidential Appendix 2** - Full Business Case
- **Confidential Appendix 3** - Condition Precedents
- **Confidential Appendix 4** - Land Strategy Report
- **Confidential Appendix 5** - Legal Suite
- **Confidential Appendix 6** - Financial Report
- **Confidential Appendix 7** - Legal Advice
- **Appendix 8** - Land Appropriation

16. The report to Cabinet is split into the following sections:

- i. Points 12 – 17 – progress since November 2020
- ii. Points 18 – 25 – overview of issues
- iii. Points 26 – 28 – Contract Award
- iv. Points 29 – 44 - Conditions Precedent, including
 - i. Land Strategy
 - ii. Car Parking Provision
 - iii. Associated British Ports Covenant
 - iv. Travelodge Hotel
- v. Points 45- 50 - Alternative Funding Instrument
- vi. Points 51 – 52 – Contractual Suite
- vii. Points 53- 55 – Enabling Works
- viii. Points 56 - 61 – Covid 19 Pandemic
- ix. Point 62 – Financial Diligence
- x. Points 63 – 64 – Programme and Next Steps.

17. **Points 12-17** set out the progress made since November 2020, including:

- i. RIBA Stage 2 design, ready for submission of a planning application in October 2021
- ii. Pre-Application consultation on planning application, covering the Arena in detail and the wider masterplan in outline
- iii. Development of detailed costs, reviewed by cost consultants

- iv. Preparation of full suite of legal documents required to enter a contract at financial close, including the Development and Funding Agreement for Lease and the Lease, which are substantially agreed
- v. Agreement of terms to acquire land interests from Welsh Government, Taylor Wimpey and Carillion
- vi. Full Business Case confirming that the Indoor Arena is deliverable within the financial envelope established by the Council.

18. At **point 15**, the report to Cabinet highlights the proposed change from an Income Strip approach to financial delivery of the project to the council funding the project through direct Council funding. Details are set out in the Financial Report attached as **Confidential Appendix 6**.

19. **Point 19** sets out that 4 months has been added to the completion time for the Indoor Arena, due to dealing with cost increases caused by supply chain issues.

20. **Points 20-23** set out the need to 'stop up' Schooner Way, utilising the County Hall car park spine road as a controlled access route. There are associated land assembly issues, resulting in the Arena redline boundary shifting 3m to the south and 2m to the east to avoid build-over rights and the possibility the Council may need to use Compulsory Purchase Order powers to acquire two small parcels of land. These issues have resulted in some additional unforeseen costs and additional enabling works and the extension of the construction works by six months to circa 32 months. It is therefore proposed to extend the length of lease from 45 years (2+43) to 46 years (3+43).

21. **Points 24-28** set out the existing obligations of the Council, including appropriating required land once planning permission is secured, and that obligations will follow if the Cabinet approves contract award and therefore enters into a Development Agreement. **Point 25** states that '*Cabinet will need to be satisfied that the obligations can be achieved so as to avoid any potential abortive costs.*' Once the conditions are met, the Council will grant a lease to the Live Nation consortium. If conditions are not met because of '*the Council's failure to satisfy the Restrictive Covenant Condition, Site Assembly Condition, Car Park*

Condition, [submit the relevant Highways Application/ obtain the relevant Highways Orders,] or because the planning permission is not granted due to a reason relating to the Masterplan development (rather than the Arena application) then the Council will be required to pay the Live Nation consortium's costs up to a pre-agreed cap' (Point 27).

22. **Point 28** directs Cabinet to paragraph 9 of Confidential Appendix 7, the legal advice, which sets out several considerations arising from contract award decision that Cabinet should consider.

23. **Points 29 – 44** set out the Conditions Precedent, including Land Strategy, Car Parking Provision, Associated British Ports Covenant and Travelodge Hotel. The main points to note are:

- i. The Land Strategy is set out in Confidential Appendix 4.
- ii. The Council may use Compulsory Purchase Order (CPO) powers to acquire an Outstanding Parcel of land if it cannot be acquired by agreement. The outstanding parcel of land is required to provide public realm to facilitate the regeneration of the area surrounding the Arena. A further report to Cabinet would be required to seek approval for the CPO, if one is needed.
- iii. The obligation to retain a minimum 1,300 car parking spaces is addressed by Cabinet authority, granted in July 2001 as part of the Atlantic Wharf update report, to progress a Full Business Case for a proposed new Multi-Storey Car Park.
- iv. The Council has agreed Heads of Terms with Associated British Ports (APB) and these were incorporated into a binding agreement, exchanged 11 February 2021
- v. The break date with Travelodge has been extended to allow negotiations to be concluded, with dialogue continuing with the Live Nation consortium regarding the delivery of a new Travelodge Hotel as part of the Arena development.

24. **Points 45-50** set out an overview of the reasons for the proposed Alternative Funding Instrument, with further details contained within Confidential Appendix 6. The report to Cabinet states this will secure a more optimum funding approach.
25. **Points 51-52** set out there is a reduction in the number of contractual documents required because of the proposal to utilise an alternative funding instrument. Further details are contained in Confidential Appendix 5.
26. **Points 53-55** state the need to carry out enabling works at and around the site for the Indoor Arena and replacement Travelodge hotel, with further details set out in Confidential Appendix 2.
27. **Points 56-61** set out that despite the full shutdown of the live entertainment industry in March 2020, there is confidence in the long-term resilience of the sector. The Live Nation consortium has provided a Parent Company Guarantee, which provides the Council with an additional level of security.
28. **Point 62** states that no significant issues were identified by the Council appointed independent advisors who undertook further financial due diligence. Further details are available in the Financial Implications section and in **Confidential Appendix 6**.
29. **Points 63-64** set out the indicative programme, anticipating the Arena will be open in 2025.

Financial Implications

30. **Points 66– 90** set out financial implications, split into the following sections:
- i. Full Business Case
 - ii. Revised Funding Strategy
 - iii. Council Capital Contribution
 - iv. Arena Affordability Envelope/ Project Costs
 - v. Conditions Precedent
 - vi. PCSA/ Development Agreement Underwrite
 - vii. Financial Due Diligence

- viii. Enabling Works
- ix. Compulsory Purchase Order
- x. RDC Investment Asset
- xi. Subsidy Control
- xii. Accounting and Tax implications
- xiii. Covid 19/ Brexit
- xiv. Linkages to other Council projects.

31. The financial implications highlight:

- i. The independent Full Business Case demonstrates an improvement in values achieved compared to anticipated values, with a positive return likely and overall long-term financial benefits projected to be higher than direct costs incurred by the Council.
- ii. There remains a financial risk as the majority of the Council investment is front-loaded.
- iii. A review of potential funding solutions, by the Council's independent Treasury Advisors, identified that the optimal funding solution was a 'direct funding' approach. Details of the associated risks and rewards as well as sensitivity analysis is included in Confidential Appendix 6.
- iv. The Council's Capital Strategy includes an allowance to enable the Council to 'direct fund' the Arena construction, subject to Cabinet approval of the Full Business Case.
- v. The maximum level of Council Capital Contribution was fixed as part of the bidders' final tender submissions. This contribution comes from capital receipts and borrowing. Some of the capital receipts are still to be realised. Any significant delays or non-realisation of these capital receipts is likely to have an adverse impact on the Council's ability to meet this level of proposed gap funding contribution.
- vi. Based on current projections it is anticipated the project can be delivered within the approved affordability envelope. Further details are set out within Confidential Appendix 6.
- vii. The Conditions Precedent obligate the Council to complete land acquisitions, release of covenants and deliver a new 1,300 space

- Multi Storey Car Park by the date the Arena opens. Further details are set out in Confidential Appendix 3.
- viii. A further underwrite of costs is required to progress to the next stage of development and ensure the project remains deliverable and within the affordability envelope. These costs become development costs borne by Live Nation consortium and only become payable by the Council if the Council chooses not to proceed or is unable to meet its obligations.
 - ix. Independent advisors have carried out further due diligence on the Live Nation consortium, with no issues identified, and have also highlighted some key risks for the Council to be aware of and monitor moving forward – further details are contained in Confidential Appendix 6.
 - x. The costs from further enabling works are set out in Confidential Appendix 6.
 - xi. The potential costs of a Compulsory Purchase Order are included within existing Arena budgets.
 - xii. Cabinet is advised to note the financial implications, on the Council's investment in the Red Dragon Centre, of entering into a contract to deliver the Indoor Arena. These implications are set out in Confidential Appendix 6.
 - xiii. The Council has taken independent legal advice, set out in Confidential Appendix 7, which demonstrates how the Council could satisfy subsidy control (previously state aid) requirements regarding the financial contribution towards the construction of the Arena.
 - xiv. Initial VAT advice suggests that any Council capital contribution may be subject to VAT. Therefore, the Council has exercised an option to tax the whole site, allowing VAT recovery on any costs directly associated with interests in land granted. Further details are set out in Confidential Appendix 6.
 - xv. Substantial market movements which increase the overall cost to deliver the Arena, such as those caused by the combination of Covid-19 and Brexit, could have negative effects on project affordability.

- xvi. It is critical that the interlinkages between the Indoor Arena, Atlantic Wharf masterplan, Heat Network, County Hall building, and the potential redevelopment of the Red Dragon Centre are understood, given the potential knock-on effects and implications each could have on other Council priority projects. The new Indoor Arena is regarded as the key anchor project and the first phase of the Atlantic Wharf regeneration proposals. Therefore, any decisions taken in this report may have a wider impact on viability of other Council priority projects.

Legal Implications

32. **Points 91 – 114** set out the legal implications, including those relating to procurement, state aid/ subsidy control, powers, and the overall legislative requirements.
33. Regarding procurement, detailed advice on the Preferred Bidder stage and Contract Award stage is provided in Confidential Appendix 7.
34. Regarding state aid/ subsidy control, a new set of rules described as subsidy control have been brought into force by the EU/ UK Trade and Co-operation Agreement, amplified and developed by the UK subsidy control bill still before Parliament. As these are new rules, there is limited guidance and no case law, increasing uncertainty. The legal implications state that, in their view, there is no subsidy as the Council is paying market price and letting the building on a market terms. The Detailed advice is set out in Confidential Appendix 6.
35. Regarding powers, the legal implications set out the relevant powers by which the Council can acquire land, acquire land compulsorily, contribute towards the expenses of provision of entertainment or premises suitable for entertainment, and invest. They also set out the need for the Council to:
- i. consider value for money, risks, rewards, and potential future liabilities and whether these are proportionate to securing the stated economic development objectives and thereby in the best interests of local taxpayers and residents

- ii. consider its duties with regard to the Equality Act 2010, the Well-Being of Future Generations (Wales) Act 2015, Welsh Language Measure (Wales) 2011 and Welsh Language Standards, and
- iii. comply with the Policy and Budgetary Framework.

36. At **point 106**, the legal implications highlight that there will be further refinement to the suite of legal documents but that *'this does not materially modify the essential aspects of the tender or the procurement and does not risk distorting competition or causing discrimination.'*

Property Implications

37. **Points 115-119** set out that Strategic Estates has prepared the relevant document to ratify the agreements with Travelodge and will continue to monitor closely. Regarding the outstanding parcel of land, Strategic Estates is continuing to negotiate and discuss with the owners to avert the need for a Compulsory Purchase Order.

38. **Point 119** sets out the requirement to make an additional payment 5 working days following submission of the planning application for development of an Arena on the Red Dragon Centre.

Proposed Recommendations to Cabinet

39. The report to Cabinet contains the following recommendations:

- (i) *Approve the Full Business Case for the new Indoor Arena as set out in Confidential Appendix 2*
- (ii) *Confirm the Live Nation consortium as the successful bidder to be the Council's partner to deliver and operate a new Indoor Arena and Travelodge Hotel at Atlantic Wharf, Butetown*
- (iii) *To note the legal advice mentioned at Paragraph 28 of this report and proceed with Option 1 as recommended at paragraph 9.10 of that advice*
- (iv) *Approve the legal documentation as detailed in Confidential Appendix 5 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 legal documentation as detailed in Confidential Appendix 4 and in so doing approve any amendments to the legal documentation approved here as may be necessary, for reasons including but not limited to ensuring consistency between them and finalising any outstanding areas*
 - (b) approve any further deeds and documents which are ancillary to the legal documents approved here, and*
 - (c) enter into all the necessary contractual documents associated with the delivery of the Arena.*
- (v) Note the obligations that will be placed on the Council to support the delivery of the new Indoor Arena as set out in the Conditions Precedent document attached as Confidential Appendix 3*
- (vi) Approve in principle for a Compulsory Purchase Order for the acquisition of land outside of the Arena demise to facilitate the delivery of the wider Arena site and Atlantic Wharf masterplan*
- (vii) Pursuant to powers under Section 122 of the Local Government Act 1972 and Section 227 Town and Country Planning Act 1990, to facilitate the redevelopment of the land for an Indoor Arena in accordance with the development described in this report, to:*
- (a) approve the appropriation of the land that is within the Council's ownership edged red on the plan at Appendix 8 to planning purposes as it is no longer required for its current purpose, and*
 - (b) delegate authority to the Director of Economic Development to take all steps necessary to appropriate to planning purposes:
 - (i) the land edged blue on the plan at Appendix 8 following the advertisement of all relevant public open space notices, and*
 - (i) the land edged red on the plan at Appendix 8 following the surrender of the lease to Travelodge and the transfer of ownership of this land back to the Council**
- (viii) Approve for delivery associated enabling works to deliver the Indoor Arena and Travelodge Hotel as described in more detail in Confidential Appendix 2 and the design development costs underwrite as detailed in Confidential Appendix 6.*

Previous Scrutiny

40. At this Committee's meeting on **5 October 2017**, Members:

- i. Supported proposals for a multi-purpose indoor arena, recognising the benefits that will accrue to the city region from increased footfall and enhanced infrastructure.
- ii. Highlighted it would be sensible to explore a range of funding options
- iii. Highlighted the business case for the indoor arena should clearly detail the likely impact the arena will have on other venues in the city region.

41. At their committee meeting on **13 February 2018**, Members highlighted¹:

- i. Members' initial support for the preferred location, subject to future consideration of additional information that will emerge from the overall business case and financial implications
- ii. The need for the arena proposals to include high quality, reliable and affordable public transport to avoid adding to congestion in Cardiff
- iii. Members wish to undertake further scrutiny of the delivery strategy, including the financial implications for the Council.

42. In addition, the Chair, Councillor Nigel Howells, sent a confidential letter to Councillor Russell Goodway, dated 14 February 2018, capturing the Committee's thoughts regarding the confidential information considered at the meeting. A copy of this letter was shared with Committee Members, who are reminded of the need to keep the contents of the letter confidential.

43. At their committee meeting on **8 November 2018**, Members highlighted²:

- i. Their support for the recommendations to Cabinet
- ii. That Members wish to be kept abreast of proposals for the Motorpoint site
- iii. That costs for design, pre-development work and independent consultants to undertake verification checks are necessary and appropriate

¹ Public Letter from Councillor Howells, Chair Economy & Culture Scrutiny Committee, to Councillor Goodway, Cabinet Member – Investment & Development, dated 14 February 2018.

² Public Letter from Councillor Howells, Chair Economy & Culture Scrutiny Committee, to Councillor Goodway, Cabinet Member – Investment & Development, dated 9 November 2018

- iv. Members would like to receive evidence of market testing to demonstrate the indoor arena development is able to hold its own against competitors.

44. The Chair, Councillor Nigel Howells, also sent a confidential letter to Councillor Russell Goodway, dated 9 November 2018, capturing the Committee's thoughts regarding the confidential information considered at the meeting. A copy of this letter was shared with Committee Members, who are reminded of the need to keep the contents of the letter confidential.
45. At their committee meeting on **4 July 2019**, Members scrutinised the report to Cabinet regarding the next steps in delivering the indoor arena. Following this, the Chair sent a confidential letter to Councillor Russell Goodway, dated 8 July 2019. A copy of this letter has been shared with Committee Members, who are reminded of the need to keep the contents of the letter confidential.
46. At their committee meeting on **17 December 2019**, Members scrutinised the report to Cabinet regarding the proposed procurement process and new financial strategy. Following this, the Chair sent a confidential letter to Councillor Russell Goodway, dated 18 December 2019; a response from Councillor Russell Goodway was received, dated 19 December 2019. Copies of these letters have been shared with Committee Members, who are reminded of the need to keep the contents of the letter confidential.
47. At their committee meeting on **16 November 2020**, Members scrutinised the next stage in the Indoor Arena procurement. Bevan Britten LLP were in attendance to answer Members' queries. Members explored how the preferred bidder would provide socio-economic benefits, and how these would be measured, as well as how they would complement the music ecosystem. Members also received assurance that it was believed the impact of covid-19 on the live events sector was short term, with pent-up demand building.
48. Following the meeting, the Chair, Councillor Howells, wrote a confidential letter to Councillor Goodway, Cabinet Member – Investment and Development, dated 23 November 2020. A response from Councillor Goodway was received, and both

letters have been circulated to committee members by email ahead of this meeting.

Way Forward

49. Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development), and Chris Barnett (Operational Manager – Major Projects) will attend. Members will be able to ask questions to the panel of witnesses.

50. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 2-7**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

51. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

52. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial

implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting
- ii) Determine whether they would like to make any comments, observations, or recommendations to the Cabinet on this matter in time for its meeting on 23 September 2021, and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

14 September 2021

This page is intentionally left blank

CABINET MEETING:

23 SEPTEMBER 2021

INDOOR ARENA FULL BUSINESS CASE

INVESTMENT & DEVELOPMENT (CLLR RUSSELL GOODWAY)

AGENDA ITEM:

PORTFOLIO: INVESTMENT & DEVELOPMENT

Appendices 2 to 7 of this report are not for publication as they contain exempt information of the description contained in paragraphs 14 (Information relating to the financial or business affairs of any particular person (including the authority holding that information) and 16 (Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To seek approval of the Full Business Case and associated legal agreements to conclude the procurement process for delivery of the new Indoor Arena and replacement Travelodge Hotel at Atlantic Wharf, Butetown.
2. To formally appoint the Live Nation consortium as the successful bidder.
3. To approve the appropriation of land for planning purposes required for the delivery of the new Indoor Arena.
4. As required to seek in-principle authority for the making of a Compulsory Purchase Order for the acquisition of land to facilitate the delivery of the Indoor Arena and wider Atlantic Wharf masterplan.
5. To seek approval for the delivery of an enabling works package and to further extend the Council's cost underwrite.

Background

6. Delivering a new Indoor Arena remains a key strategic regeneration priority for the Council, supporting a number of Corporate Plan commitments, Council priorities and strategies, including:
 - Attracting more visitors to the city that stay longer
 - Supporting growth in the local economy and creating jobs
 - Supporting the next phase regeneration of Cardiff Bay
 - Eliminating poverty and promoting equality
 - Promoting culture and creativity
 - Supporting the Cardiff Music Strategy
7. In July 2019, Cabinet gave authority to commence a public procurement process to secure a developer/operator consortium to deliver an Indoor Arena at Atlantic Wharf, Butetown with a minimum capacity of 15,000 as part of a wider regeneration strategy for Cardiff Bay.
8. The Council subsequently launched a competitive tendering exercise in August 2019 via the publication of a Concession Notice in the Official Journal of the European Union (“OJEU”). This was for the purposes of alerting the market of an opportunity whereby the Council was seeking to appoint a developer and operator to design, construct, maintain and operate a new, larger capacity indoor arena in Cardiff Bay.
9. As the procurement process fell under the scope of the Concession Contracts Regulations 2016 (“CCR”) it is afforded a greater degree of flexibility in the structure and conduct of the competition. The Council therefore adopted a process similar to the Competitive Dialogue procedure (as more particularly described in the Public Contracts Regulations 2015 (as amended) (“PCR”) but was bound by the rules or formalities that would have applied under the PCR. A detailed overview of the procurement process is set out at Appendix 1.
10. In November 2020, Cabinet approved the appointment of the Live Nation consortium as the Preferred Bidder in the procurement process to deliver a new Indoor Arena in Butetown, Cardiff Bay. At the same meeting Cabinet gave authority for the Council to enter into a Pre-Contract Service Agreement (PCSA) which included the under-writing of costs up to an agreed cap to enable the Preferred Bidder to develop detailed designs. Cabinet authority was also provided to progress a Land Strategy to ensure the Council secures full control of all land required to deliver the project.
11. The PCSA was, amongst other things, for the purposes of enabling the Live Nation consortium to develop their proposal and designs to complete a Full Business Case to obtain further certainty on the deliverability of the project. As previously reported, entry into the PCSA committed the Council to underwrite the Live Nation consortium’s costs in certain circumstances (up to a pre-agreed cap) as set out in Confidential Appendix 2. If the project proceeds as expected, these costs will be absorbed within the overall development cost of delivering the Arena development.

12. Since November, under the PCSA, and as part of completing the Full Business Case, significant progress on the project has been made. The detailed design has been taken forward to RIBA Stage 2 ready for the submission of a planning application in October. The Live Nation consortium has also engaged with the Local Planning Authority and has commenced Pre Application Consultation on a Hybrid Application covering the Arena in detail and the wider masterplan in outline.
13. Alongside the development of detailed designs, the Live Nation consortium has also taken forward the development of detailed costs. These costs have been reviewed by the Council's appointed cost consultants and are attached as part of the Full Business Case at Confidential Appendix 2.
14. In order to move from a PCSA to a Development and Funding Agreement for Lease the full suite of legal documents required to enter a contract at financial close need to be agreed in principle. These documents are now substantially agreed and are attached as Confidential Appendix 5.
15. The suite of legal documents includes the Development and Funding Agreement for Lease (DFA) and the Lease. Initially the Council had explored an Income Strip approach to the financial delivery of the project. Following extensive due diligence the Council is now proposing to fund the project through direct Council funding. Details are set out in the Financial Report attached as Confidential Appendix 6.
16. During the PCSA stage the Council has been working to ensure all land required to deliver the project is secured under the Council's control. The Council has progressed the Land Strategy and has agreed terms to acquire land interests from Welsh Government, Taylor Wimpey and Carillion.
17. The Preferred Bidder stage of the competition and the deliverables under the PCSA have been completed successfully. The Full Business Case is attached at Confidential Appendix 2 and confirms that the project is deliverable within the financial envelope established by the Council at the outset of the procurement process. Approving the Full Business Case will enable the Council to enter into the DFA with the successful bidder. The DFA is included in the suite of legal documents attached at Confidential Appendix 5.

Issues

18. This report seeks Cabinet authority to award the contract for the delivery of a new Indoor Arena to the Live Nation consortium. The DFA, once signed, remains subject to a number of conditions being satisfied before the Lease can be completed. In entering into the DFA the Council is underwriting costs for the satisfaction of the conditions and development of the detailed design to RIBA Stage 4, further extending the Council's exposure, as set out in Confidential Appendix 2 and 6. These costs are only payable by the Council in the event that the Council chooses not to proceed with the project before financial close and will otherwise be consumed within the Live Nation consortium's overall costs for delivering the project.

19. The UK's exit from the European Union has led to a significant increase in the overall costs of delivery. The Live Nation consortium has projected a significant increase in cost over and above their original submission (see Confidential Appendix 2). This is due to significant supply chain issues with materials. These costs are a development risk which the Live Nation consortium has agreed to absorb to ensure the project remains within the financial envelope established by the procurement process. However, the implication of dealing with these cost increases has meant that the completion of the Full Business Case has taken circa 4 months longer than had originally been expected and in turn will result in the Arena being delivered later than originally expected.
20. To establish the site for the development of the Arena, Schooner Way will need to be closed (stopped-up) and the services currently underneath Schooner Way diverted. The long-term intention is to reconnect Schooner Way to Hemmingway Road via a new road connection if the County Hall site is redeveloped in the future. Over the short term controlled access will be provided connecting Schooner Way to Hemmingway Road through the existing County Hall car park spine road. This will primarily be to enable the effective operation of the Arena only. Following the terrorist attack on the Manchester Arena new legislation has been introduced known as Martin's Law, which restricts vehicular access to crowded places by requiring up to a 30m buffer zone. The County Hall car park spine road will be within a few meters of the Arena and therefore will only be able to be utilised with access control.
21. The Live Nation consortium has embarked upon consultation and engagement with local businesses and residents as part of the pre-application planning process. The closure of Schooner Way has become one of the key issues for local residents mainly concerned with traffic movements in the area. This issue will need to be addressed through the planning process.
22. The requirement to close Schooner way has also created a land assembly issue for the Council, which in turn has led to the project incurring some additional unforeseen costs. The Council is being held to ransom by the owner of two small parcels of land, one to the west and one to the north of the Arena site. The land sits outside of the Arena red line boundary, but is nonetheless required for public realm improvements surrounding the new Indoor Arena. This has led to a number of mitigating actions to avoid significant impacts to the delivery programme, which in turn would have resulted in significant additional cost. In particular, the Arena redline boundary has been shifted 3m to the south and 2m to the east to avoid an issue over build-over rights. This in turn has led to the need for additional enabling works to avoid delays to the programme as set out in Confidential Appendix 2. The Council may now need to pursue acquisition of these parcels of land through the use of Compulsory Purchase Order powers.
23. In addition to the costs associated with the requirement for additional enabling works, avoiding the ransom land has also resulted in the construction programme being extended from circa 26 months to circa 32 months. Furthermore, to mitigate the risk of this extended construction period it is

proposed to extend the length of lease from 45 years (2+43) to 46 years (3+43).

24. In order for the Council to meet its obligations all of the required land needs to be appropriated for planning purposes. This process can only begin once the development has secured planning permission and will take an estimated 8 weeks to complete. The rationale is presented in the document attached at Appendix 8.
25. Entering into a Development Agreement with the successful bidder will place a number of obligations on the Council. These obligations are outlined below in this report and set out in detail in the Conditions Precedent document attached at Confidential Appendix 3. Cabinet will need to be satisfied that the obligations can be achieved so as to avoid any potential abortive costs.

Contract Award Decision

26. Cabinet, in reaching a contract award decision will be giving approval for the Council to enter into the DFA referred to above following observing a mandatory 10-day standstill period.
27. Once signed, the DFA will remain subject to the satisfaction of several conditions. Once these conditions are met, the Council will grant a lease to the Live Nation consortium. The conditions here include Planning, Car Parking, Restrictive Covenant, Site Assembly, Highways, Hotel, Car Parking, Arena Licence, Consents, Surveys and Funding. If the Conditions are not met because of the Council's failure to satisfy the Restrictive Covenant Condition, Site Assembly Condition, Car Park Condition, [submit the relevant Highways Application/obtain the relevant Highways Orders,] or because the planning permission is not granted due to a reason relating to the Masterplan development (rather than the Arena application) then the Council will be required to pay the Live Nation consortium's costs up to a pre-agreed cap.
28. The legal advice dated 13th September 2021 contained in Appendix 7 of this report, sets out a number of considerations arising from the contract award decision as set out in Paragraph 9 of that advice that will need to be considered by Cabinet.

Conditions Precedent

Land Strategy

29. As part of the Arena and wider Atlantic Wharf masterplan (to facilitate the provision of neighbouring public realm) the Council is required to acquire a number of parcels of land. Originally it was envisaged that all of the land would be assembled by the time the Full Business Case is approved. The Land Strategy is set out in Confidential Appendix 4.
30. Further to the above, the most immediate parcel of land that the Council needs to seek approval from Cabinet to acquire now, is that relating to a parcel of land to the west of the Arena site (the Outstanding Parcel), outside of the Arena

redline as illustrated at Confidential Appendix 4, reference WA374945. Whilst the Outstanding Parcel is not directly necessary for the construction of the Arena itself, the acquisition of the land is required to provide public realm to facilitate the regeneration of the area surrounding the Arena.

31. The Council has considered whether it would have sufficient powers under Highways legislation to carry out the required works to the Outstanding Parcel but has concluded that it needs overall control for the following reasons:
 - Although part of the land lies within the adopted highway and the Council would have some powers to carry out works relating to the installation and maintenance of services, not all of the land is within the adopted highway; and
 - In the event that any part of the land is stopped up to allow the creation of public realm, control of the relevant land would revert to the original owner and the Council would then not have sufficient powers to carry out maintenance works to the services in this area of the land.
32. Unfortunately, it has not been possible to delay the acquisition of the Outstanding Parcel because it would cause significant delay to the delivery programme which in turn would incur substantial costs and jeopardise the viability of the project.
33. The Council contacted the owners of the Outstanding Parcel by letter to two addresses shown on the title search to seek to acquire it by agreement in February 2020, and opened informal discussions shortly after. The Council procured a valuation and the figure was presented to the owner. The owners have responded and indicated that they would be prepared to sell the Outstanding Parcel by agreement to the Council but their aspiration is significantly higher than the Council's valuation. As part of the process, the Council's agent made a formal offer in writing to the owner, but given the very significant differences between the two parties it seems apparent that the Outstanding Parcel will not be acquired by agreement within a reasonable timescale. Authority to acquire the abovementioned land by way of a Compulsory Purchase Order is therefore required.
34. It is proposed that the Council may use its powers under section 226(1)(a) of the Town and Country Planning Act 1990 in order to acquire the Outstanding Parcel, if it cannot be acquired by agreement. Under section 226(1)(a) of the Act, the Council, upon being authorised, can acquire any land in their area:

“if the Council thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in the land”.
35. The exercise of the power also requires that the Council:

“thinks, that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects:-

 - the promotion or improvement of the economic wellbeing of their area
 - the promotion or improvement to the social wellbeing of their area

- the promotion or improvement of the environmental wellbeing of their area”
36. The Welsh Government Circular 003/2019 “Compulsory Purchase in Wales and ‘The Crichef Down Rules (Wales Version, 2020)’” sets out guidance for acquiring authorities in relation to the making of Compulsory Purchase Orders, including when it is appropriate for compulsory purchase powers to be utilised pursuant to section 226(1)(a). The Guidance sets out the key tests which need to be satisfied before a Compulsory Purchase Order will be confirmed – these are considered by the Welsh Ministers prior to deciding whether to confirm the Order and must be considered by the Council prior to the making of any Order. Further details of these tests and the justification for making the Order will be provided to Cabinet in a subsequent report if it should prove necessary to seek authority from Cabinet to make a compulsory purchase order in the future. If a Compulsory Purchase Order in respect of the Outstanding Parcel is made it will be critical to demonstrate to the Welsh Ministers that there are no hurdles to the delivery to the Development that cannot be overcome, including the fact that planning permission has been or will be granted.
 37. It is considered that the criteria within section 226(1)(a) are likely to be satisfied, as the acquisition of the Outstanding Parcel will facilitate the delivery of significant benefits by the Development, that will improve the economic, social and environmental wellbeing of the area. These benefits include:
 - The delivery of an Indoor Arena with a minimum capacity of 15,000;
 - The delivery of circa 2,000 jobs during the construction phase and circa 1,000 jobs during the operational phase of the Arena;
 - Significant improvements to public realm in the vicinity of the Indoor Arena;
 - Improvements to transport links to the area; and
 - A catalyst for the further regeneration of Atlantic Wharf.
 38. The draft Order, Order Map and Statement of Reasons would be provided for consideration and approval by Cabinet in the event that it should prove necessary to seek authority from Cabinet to make a Compulsory Purchase Order in the future.

Car Parking Provision

39. The Conditions Precedent contain an obligation on the Council to retain the existing car parking provision at Atlantic Wharf, with a minimum of 1,300 car parking spaces being available no later than the time of opening of the new Arena, subject to planning.
40. As part of the November 2020 Cabinet decision for the new Indoor Arena, Cabinet approved the development of an outline business case to determine the preferred solution for the delivery of the car park provision.
41. This business case was included within the Atlantic Wharf update report presented separately to Cabinet in July 2021 where Cabinet granted authority for the Council to progress a Full Business Case for the proposed new Multi-Storey Car Park.

Associated British Ports (“ABP”) Covenant

42. As part of the Land Strategy the Council has worked with ABP to understand various site constraints including a restrictive covenant over the use of the County Hall site. The Council agreed Heads of Terms with ABP to remove the restrictive covenant, permit the Arena to be built adjacent to the dock feeder and to provide technical advice relating to a number of site constraints including the re-alignment of the dock feeder. These Heads of Terms were incorporated into a binding Agreement with ABP which exchanged on 11th February 2021.

Travelodge Hotel

43. In June 2020, Travelodge went into Company Voluntary Agreement (CVA) and as part of this the Council was given an option to accept a new rental payment structure and/or agree to a break clause (planned for 5 months from the date of the CVA). The Council accepted this proposal by proxy. However, given the delays with progressing the PCSA, the break date has been extended to allow the negotiations in relation to the Agreement for Surrender and Lease with Travelodge to be concluded.
44. Over the course of the Preferred Bidder stage, the Council and the Live Nation consortium have continued dialogue with Travelodge regarding the delivery of a new Travelodge Hotel as part of the Arena development.

Alternative Funding Instrument

45. The procurement process has, to date confirmed that a new Indoor Arena is able to be a commercially viable business proposition, without any ongoing Council subsidy once it is delivered.
46. The procurement process (and basis on which bids were submitted) assumed that bidders would secure their own finance arrangements to obtain the necessary funding to deliver the Arena. Upon execution of the Development Agreement (subject to the satisfaction of several conditions), it was intended that the Council will grant a lease to the Live Nation consortium or its funder and the income strip / lease and lease back arrangements would then be entered into at financial close. However, it is now recommended that the Council consider an alternative funding instrument. Cabinet approval is now sought on the preferred, alternative funding instrument, as explained further, below.
47. Despite the situation regarding the COVID-19 pandemic improving, the disruption caused to the entertainment/hospitality industry in particular continues to devastate businesses worldwide. Whilst it is encouraging to note that with the relaxation of the lockdown rules the return of live events is a real possibility in the near months the construction industry and the availability/price of materials appears to be an ongoing issue.
48. Further to the above, and given that the Council is prepared to make a significant financial commitment to delivering the Arena, the Council created flexibility within the procurement documents to utilise alternative financial instruments to deliver an equivalent level of funding to bidders (in line with their

final tender submissions). The aim behind this drafting was to not tie the Council down to having to utilise a prescribed funding approach but to allow the Council to explore alternative funding options, to boost the prospects of the project being completed.

49. Details of the proposed change in structure is contained within the Financial Report attached as Confidential Appendix 6. The proposed change will allow the Council to secure a more optimum funding approach, which will aid the Council in achieving best value. Additionally, the alternative structure would seek to preserve Live Nation's final tender submission and the financial commitments contained within that submission. The new funding structure replicates the fundamental features and obligations of the risk profile and terms of the previous financing arrangement.
50. As a result of the above financial restructuring, this will have an impact on the contractual suite that Council anticipates entering at the conclusion of the process as set out below.

Contractual Suite

51. Subject to receiving approval from Cabinet to award a contract to the Live Nation consortium, the Council would be required to enter into a number of contractual documents. In light of the proposal to utilise an alternative funding instrument to deliver the equivalent level of funding to the Live Nation consortium, there is a reduction in the number of documents required and consequential changes to the remaining contractual documents.
52. An overview of the purpose of each document comprising the contractual suite along with a final-form version of each document is contained in Confidential Appendix 5.

Enabling Works

53. In order to deliver the Arena and replacement Travelodge hotel the Live Nation consortium will be required to carry out enabling works at/around the site.
54. In addition to the above, the Council is also required to undertake/commission further enabling works on the land that it will be seeking to acquire as referred to in the Land Strategy section, above.
55. Further details on this additional package of works is also set out in Confidential Appendix 2.

COVID-19 Pandemic

56. In March 2020, the COVID-19 pandemic emerged across Europe and has resulted in a full shut-down of the live entertainment industry since then.
57. Despite this, the procurement process to secure a developer/operator consortium for the new Indoor Arena in Cardiff has progressed unabated. The procurement process involved the two largest Arena operator/promoters globally who were extremely confident of the long term resilience of the sector.

58. As set out above, the Cardiff project is a private sector led proposal, supported by the Council. That means the private sector will be taking the lion's share of the risk associated with delivery of the project, in the form of a commitment to a long-term commercial lease. Furthermore, the Live Nation consortium has provided a Parent Company Guarantee which provides the Council with an additional level of security.
59. It is viewed by the industry that the COVID-19 pandemic has caused a 'pause' in the live entertainment calendar rather than a loss of business, as the vast majority of shows will still be presented once restrictions allow, likely resulting in a much more congested 2021/22 event calendar. In some countries where the pandemic is under greater control, there has already been a return of live events.
60. The competition for market share has continued during lockdown. New Arena developments have progressed in Europe and in recent weeks new arenas have been announced for Milan and for Manchester. The arenas in Gateshead and most notably in Bristol are still progressing. The Live Nation consortium strategy is to establish the Cardiff Arena as a top tier UK Arena and the premier Arena in the South West region of England and Wales.
61. The June 11 2020, '*Restart Recover Renew*' Cabinet Report noted the need to consider the opportunity for the Council to stimulate local development, and that renewal work would be led by major projects that would have the most positive impact on job creation, inward investment and the environment. In light of the need to accelerate such investment, the new Indoor Arena represents a significant 'oven ready' project of scale that would make a sizable impact on job creation and business development. Put simply, the new Arena project represents an opportunity to lever much needed capital investment to support the renewal of the city economy.

Financial Due Diligence

62. As a result of the COVID-19 Pandemic the Council appointed independent advisors to carry out further financial due diligence on the project. No significant issues were identified. Further details are outlined in the Financial Implications to this report and in the Financial Report attached at Confidential Appendix 6.

Programme and Next Steps

63. The development of the Full Business Case has taken a little longer to complete than first anticipated due to Brexit related issues. Delivery of the additional enabling works required to mitigate the land assembly issues will also add around six months to the 26 months construction programme, which means the project will take approximately an additional 10 months to complete. There is potential for the development still to be completed by the end of 2024, however until the various conditions set out in this report are met the programme is currently estimating on opening date in 2025.
64. The indicative programme is set out below:

- September 2021 - Cabinet Decision on FBC & DFA
- October 2021 - Contract Award Notice
- October 2021 - Live Nation consortium to submit Planning Application
- November 2021 - Live Nation consortium to submit RIBA S3 Report
- December 2021 - Sign DFA
- February 2022 - Planning Decision
- February 2022 - Initial Site Works – Site Clearance/Hoarding
- June 2022 - Financial Close (signing of Lease)
- 2025 - Arena Open

Reasons for Recommendation

65. To appoint the Live Nation consortium as the most economically advantageous tender to proceed to award a contract to for the delivery of the new 15,000 capacity Indoor Arena and replacement Travelodge Hotel following successful completion of the Preferred Bidder stage.

Financial Implication

66. This report, and in particular the confidential appendices, presents the outcome of the procurement process and seeks approval of the Full Business Case for the new Indoor Arena, including the recommendation to reach a decision to award a contract to the Live Nation consortium, as the successful bidder. This report (and its appendices) sets out the financial and legal commitments that the Council will enter into for the Indoor Arena to be delivered, the obligations that the Council must meet (Conditions Precedent), and the next steps to be taken.

Full Business Case

67. As detailed within the report, an independent Full Business Case has been completed and demonstrates an improvement in terms of values actually achieved through the procurement process in comparison with the anticipated values from the original and revised business cases previously presented to Cabinet. The final Full Business Case is attached at Confidential Appendix 2.
68. Overall, the procurement solution realised suggests value for money can be achieved in delivery of the Indoor Arena. The full business case captures the relevant costs and benefits of the proposed new Arena scheme (also detailed in Confidential Appendix 6) and demonstrates that based on a number of prudent assumptions, a positive return in terms of net direct costs/benefits is likely, with overall direct long-term financial benefits of scheme projected to be higher than direct costs incurred by the Council. In addition to the direct financial impact, the report also sets out the significant wider economic, social and environmental wellbeing benefits to the area of the new Arena. It should be noted though there remains a financial risk here as the majority of the Council investment is front-loaded with benefits being realised throughout 45-year lifespan of project. Further detail of the financial and economic impacts of Arena can be found within the Full Business Case attached at Confidential Appendix 2.

Revised Funding Strategy

69. As set out within the November 2020 Cabinet report, the procurement process (and basis on which bids were submitted) initially assumed that bidders would be responsible for securing the necessary funding to deliver the Arena by utilising an income strip model. This would have enabled the Preferred Bidder to utilise the Council's superior financial covenant strength to obtain more attractive lease and finance terms to make the project more financially viable, whilst importantly the freehold land and property interests would be retained by the Council at all times. This original model would have included Council guaranteeing operator payments to a third-party fund for a number of years, as well as providing a capital contribution for any gap funding which has been set aside in the capital programme. The Council also established an affordability envelope to fund the upfront delivery costs associated with the Arena (approved by Council in February 2019) in the pursuit of the Council objective of delivering a new Arena in Cardiff Bay.
70. Following evaluation of Final Tenders, the financial commitments required to deliver the new Indoor Arena crystallised and became known for the first time, with the Preferred Bidder setting out the financial commitments required by the Council to enable delivery of the new Indoor Arena. Bidders' 'Final Tender' submission documents finally locked in key details of a proposed funding strategy and committed the bidders to a number of key terms that must now remain fixed.
71. However, given the volatility and uncertainty of the financial markets the Council reserved the right in the procurement documents to explore and utilise alternative funding solutions if it could realise efficiencies for the Council. In doing so, the Council would strive to ensure that key features of the procurement process and final tender submissions remained unchanged.
72. Further to the above, during the competition, the Council took the opportunity to review potential funding solutions in consultation with Council's Treasury Advisors. This is to ensure the optimal funding solution for delivery of the project could be achieved and best value for money delivered for the Council.
73. Detailed work completed by the Council's independent Treasury Advisors which identified that the optimal funding solution was for the Council to utilise a "direct funding" approach. This was deemed to be an improved funding solution when compared to original income strip model. By adopting this approach, the Council now becomes the project funder, and will therefore take on the associated risks and rewards that entails. Details of these risks and rewards, as well as sensitivity analysis on potential outcomes is included within Confidential Appendix 6.
74. An allowance has been included within the Capital Strategy to enable the Council to 'Direct Fund' the Arena construction (as an alternative to the original Income Strip / Third Party funding model previously agreed) subject to Cabinet approval of the Full Business Case (FBC). Cabinet are able to approve the proposal to 'Direct Fund' the Arena project within the existing budgetary framework as the Capital Strategy and Treasury Management Strategy were

approved by Cabinet (February 2021) and Full Council (March 2021) respectively as part of the 2021-22 Budget.

Council Capital Contribution

75. As set out within the November 2020 Cabinet report, the maximum level of capital contribution required was fixed as part of the bidders' final tender submissions. This capital contribution is due to be funded by a mixture of capital receipts and borrowing, with the most substantial element of the Council contribution due to be funded by earmarked capital receipts. However, at this stage some of these capital receipts are yet to be realised. Any significant delays or non-realisation of these capital receipts is likely to have an adverse impact on the Council's ability to meet this level of proposed gap funding contribution.

Arena Affordability Envelope / Project Costs

76. In February 2019, as part of the budget setting process, Council approved an affordability envelope in the Council's Medium-Term Financial Plan to support delivery of a new Indoor Arena. This included financial provisions for land assembly, as well as other associated costs required to deliver the Indoor Arena and associated facilities. In November 2020, the report set out the anticipated costs required to fund all project related expenditure between November 2020 and financial close including internal/external project team costs, land, and contingencies. Based on current projections it is anticipated the project can still be delivered within this approved budget. Further details are set out within Confidential Appendix 6.

Conditions Precedents

77. To facilitate the Arena development there are several contractual obligations (Conditions Precedents) that have been placed on the Council that will require substantial financial contributions to achieve. These include the Council completing land acquisitions, release of covenants, etc. within appropriate timescales to fit within the Arena programme of delivery. One key substantial financial obligation is that the Council will be obliged to deliver a new 1,300 space Multi Storey Car Park (MSCP) in Atlantic Wharf by the date of the Arena opening. This is a condition of the contractual documents and means that the Council must have appointed a contractor to deliver the MSCP by financial close. Cabinet previously approved an Outline Business Case (OBC) for delivery of a Multi-Storey Car Park in July 2021 and authorised the development of a Full Business Case (FBC) to be presented back to Cabinet for approval in due course.
78. A summary of the key Council Obligations, including actions to be taken and timescales for delivery, have been set out in Conditions Precedent documents in Confidential Appendix 3.

PCSA / Development Agreement Underwrite

79. As part of the November 2020 Cabinet, the Council had agreed an underwrite of PCSA costs for the Developer's Costs up to a pre-agreed cap, this was to

allow the Preferred Bidder to spend a significant amount of money with a level of comfort before having the commercial security of a Development Agreement. This spend also included further design development to RIBA Stage 3 in order that all parties can have more confidence that the affordability envelope can be met.

80. In order to progress to the next stage of the development a further underwrite of costs is required from Development Agreement to Financial Close. This will include further detailed designs to RIBA Stage 4 and further site surveys / due diligence will also be required to confirm the detailed cost plan and to ensure the project remains deliverable and within the affordability envelope. Details of this work and cost is set out in Confidential Appendix 2.
81. However, it is important to note that as per the underwrite of the PCSA costs these additional costs will become development costs to be covered by the Preferred Bidder if final approval is given to proceed. These costs only become payable by the Council in a scenario where bidders are able to meet agreed deadlines and remain within the current affordable envelope throughout, but the Council chooses not to proceed with the development or is unable to meet its obligations. The conditions here include Planning, Restrictive Covenant, Site Assembly, Highways, Hotel, Surveys, Consents, Car Parking, Arena Licence and Funding. If the Conditions are not met because of the Council's failure to satisfy the Restrictive Covenant, Site Assembly, or Car Park Conditions or the project does not achieve planning consent due to a matter linked to the wider Atlantic Wharf masterplan application then the Council will be required to pay the developer's costs up to a pre-agreed cap. It is important that Council have sufficient confidence that the conditions within the Development Agreement can be met in order to avoid potentially significant abortive costs at the next stage.

Financial Due Diligence

82. As a result of the obvious impact the COVID-19 pandemic had on the live entertainment sector the Council appointed independent advisors to carry out further financial due diligence on the Preferred Bidder. No significant issues were identified with the Live Nation consortium. The report concludes that prior to the onset of the Covid-19 pandemic, Live Nation was a growing business which traded profitably while also making significant investments in assets and acquisitions. Live Nation is equipped to withstand continued disruption and is well placed to benefit from the resumption of live entertainment events, including from pent up demand linked to delayed artist tours. The independent advisors report also highlights some key risks for the Council to be aware of and monitor moving forward, including further delays in the re-commencement of live entertainment, restricted numbers and/or reduction in demand for live entertainment. Further details are set out in independent report contained within Confidential Appendix 6.

Enabling Works

83. As set out within the 'Issues' section of this report, some land assembly issues have arisen during the PCSA stage which have directly impacted on the Arena programme, in particular a potential requirement to progress with a CPO to

acquire land required to fulfil the wider development. As a result, a number of mitigating actions have been required to be taken to avoid significant impacts to the delivery programme, but this has led to the project incurring some additional unforeseen costs. Further details regarding the enabling works strategy are set out within Confidential Appendix 2, with analysis and a summary of the financial implications of this considered in Confidential Appendix 6.

Compulsory Purchase Order

84. This report seeks Cabinet approval in principal to progress with a CPO in relation to some parcels of land that is required to deliver the Arena. The financial implications of not being able to negotiate a purchase on this land is detailed within the Enabling Works section of these financial implications and Confidential Appendix 2. However, the potential cost of this CPO legal process is budgeted for within existing Arena budgets approved by Cabinet in November 2020.

RDC Investment Asset

85. In December 2019, Cabinet approved the acquisition of the Red Dragon Centre to facilitate the delivery of the new Indoor Arena in Atlantic Wharf. This report now seeks final approval to conclude the Arena procurement process and enter into the contractual documentation with the Preferred Bidder consortium for delivery of the new Indoor Arena. By taking this decision, Cabinet should note the financial implications this will have on the Red Dragon Centre as an investment asset held by the Council, and in particular the implications of the investment income relating to this asset. Further detail of these financial implications is set out with Confidential Appendix 6.

Subsidy Control

86. Subsidy Control (previously state aid) is referenced in the report in the context of the Council's contribution to the construction of the Arena development and a change in the funding regime, so that instead of the consortium borrowing to fund the development through a forward funding arrangement with a third party, the Council will borrow and pay for the works directly. The Council has taken independent legal advice, set out in Confidential Appendix 7, which demonstrates how the Council could satisfy subsidy control requirements regarding the financial contribution towards the construction of the Arena.

Accounting and Tax Implications

87. The Council engaged with independent financial experts to provide specialist Tax and Accounting advice on the new funding approach and on the contractual documents. Initial VAT advice received by the Council on the status of Grant Funding suggests that any Council capital contribution may be subject to VAT. Therefore, in order for the Council to recover this VAT the Council have exercised an option to tax over the whole site, in order that any interests in land granted are taxable rather than exempt supplies. In principle, this would allow for VAT recovery on any costs directly associated with these interests. Similarly, the Council has included a clause that stipulates bidders cannot dis-

apply the option to tax in relation to the Land and will not do, or cause to be done, or omit to do anything which could lead to the option to tax being revoked or dis-applied by operation of law or otherwise. Further details of the Tax and Accounting advice is set out in Confidential Appendix 6.

Covid-19 / Brexit

88. Whilst the report details the current impact of Covid-19 to the live entertainment industry, it is important to note the combination of Covid-19 and Brexit has been widely reported as affecting the availability / price of materials within the construction industry and appears to be an ongoing issue. Whilst the risk of construction inflation is ultimately a risk for the developer, substantial market movements which increase the overall cost to deliver the Arena could have negative effects on project affordability.

Linkages to other Council projects

89. Whilst the report addresses the delivery of the Arena, there are a number of other significant major projects that the Council is trying to implement which will need to interlink with the Arena project 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.
90. 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 priority projects. Whilst no decisions are being sought regarding any of these projects as part of this report, the delivery of the new Indoor Arena is regarded as the key anchor project and the first phase of the Atlantic Wharf regeneration proposals. Therefore, any decisions taken in this report may have a wider impact on viability of other Council priority projects.

Legal Implications

Procurement

91. As noted in the November 2020 Cabinet report the Council received two final tender submissions prior to the Final Tender deadline. These were evaluated in accordance with the evaluation criteria and methodology set out in the CFT, which led to the identification and subsequent appointment of a Preferred Bidder who was the bidder who provided the most economically advantageous tender.
92. The Council worked with the Live Nation consortium during the Preferred Bidder stage with to work up designs for the Arena and Travelodge Hotel. This stage of the process was governed by the PCSA.
93. Entry into the PCSA meant that the Council agreed to underwrite the Live Nation consortium's bid costs where conditions within the PCSA were met. Further information on this is set out in Confidential Appendix 2.

94. Detailed advice in respect of the Preferred Bidder stage of the competition was previously provided to the Council and this is included again, (for completeness) in Confidential Appendix 7.
95. The Preferred Bidder stage was a key milestone in the procurement process, which has now been completed to the Council's satisfaction.
96. Further to the above, Cabinet approval is now sought to proceed to award the contract to the Live Nation consortium. Further advice on this contract award stage of the process is set out in Confidential Appendix 7.
97. Prior to entering into contract with the Live Nation consortium the Council will be required to provide debriefing information and observe a mandatory 10-day standstill period in accordance with the CCR.

State Aid/Subsidy Control

98. At the point at which the procurement process started, although the UK had served Notice to leave the European Union, it was still in the transitional period and EU state aid law still applied. At that stage it was unclear when the award decision would be made, and what if any state aid or equivalent rules would apply after the UK finally left the EU jurisdiction. With effect from 1 January 2021, the UK has now left the EU and the Transition period during which EU law still applied has ended. State aid law no longer applies to any new decisions to provide financial benefits to third parties. However from that point a new set of rules described as Subsidy Control have been brought into force as set out in the EU/UK Trade and co-operation agreement ("TCA") which sets out a new replacement regime. This is to be amplified and developed by the UK subsidy Control bill still before Parliament. Detailed advice on the application of the TCA subsidy control regime is set out in Appendix 6 to this report.
99. In summary the replacement of State aid law with Subsidy control does not materially affect the definition of aid/subsidy, but the new regime, while it gives greater flexibility to subsidy providing bodies, increases uncertainty, as it is a new set of rules, and there is limited guidance, and no case law to assist in interpreting the regime. Currently there are no formal block exemptions and where there is a subsidy, compliance is dependent on the subsidy being compatible with principles.
100. The finance restructuring could have the effect of taking the scheme outside the scope of subsidy control (and indeed State aid) on the basis that the Council is paying the developer arm of the Live Nation consortium a market price to build the Arena on Council land, and the terms of the Lease to the operator of the Live Nation consortium are market price or better. In our view given the process by which the proposed contracts have been arrived at, and the controls through the Development and Funding Agreement, this is a proper conclusion for the Council to draw, and consequently there is no subsidy; the Council is paying for the works, and letting the building on market terms

Powers

101. Section 120 of the Local Government Act 1972 enables the Council to acquire land for either (a) the benefit, improvement or development of its area or (b) for any of its functions under any enactment. Section 121 allows local authorities to acquire land compulsorily for the purposes of section 120.
102. Section 226 of the Town and Country Planning Act 1990 enables the Council to acquire land compulsorily for development and other planning purposes as defined in section 246 (1) of the Act for the promotion or improvement of the economic, social or environmental well-being of the area.
103. 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.
104. 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.
105. 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.
106. The report seeks authority from the Cabinet to select the Live Nation consortium as the successful bidder and proceed with the delivery and operation of a new Indoor Arena at Atlantic Wharf, Cardiff Bay through the execution of the various key documents. The Cabinet should note that there will be some further refinement to the documents but that this does not materially modify the essential aspects of the tender or the procurement and does not risk distorting competition or causing discrimination. Bevan Brittan LLP have confirmed that the structure of the legal suite is appropriate for a transaction of this nature and that the documentation reflects the outcome of the various meetings and discussions that have taken place in which the Council and lead advisors have participated during the procurement process.
107. The Cabinet must also make its decision having due regard to the Council's public sector equality duties pursuant to the Equality Act 2010 (including specific Welsh public sector duties). This requires the Council, in the exercise of its functions, to 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. The protected characteristics are: age, gender reassignment, sex, race - including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil

partnership, sexual orientation, religion or belief – including lack of belief. If the recommendations in this report are accepted and when any alternative options are considered, the Council will have to consider further the equalities implication and an Equality Impact Assessment may need to be completed.

108. 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 socio-economic 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.
109. Equalities impact assessments will be undertaken as necessary as the development, and the proposals described within this report, are developed.
110. 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.
111. 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 well-being objectives are set out in Cardiff's Corporate Plan 2020-23:

<http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf>

112. The well-being duty also requires the Council to act in accordance with the '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 comprising 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 integrates approach to achieving the 7 national well-being goals;
 - Work in collaboration with others to find shared sustainable solutions; and
 - Involve people from all sections of the community in the decisions which affect them.
113. The Cabinet 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 using the link below:
<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

114. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language.

Property Implications

115. Strategic Estates has supported colleagues in the discussions with Travelodge on the CVA arrangements and prepared the relevant documentation to ratify the agreements. Discussions have continued on the Agreement for Surrender and Lease (AFL) required to document the relocation of the Hotel to include the specification and the Heads of Terms for the ongoing lease. We will continue to monitor the dates closely in respect of the CVA arrangement already agreed and documented through previous Cabinet Reports.
116. The Land Strategy attached at Confidential Appendix 4 identifies additional land outside of the Council ownership required to facilitate the development. Strategic Estates has led on the discussions and progress has been made on a number of key transactions. However, the Council has not been able to agree a reasonable value within the parameters of market value for the Outstanding Parcel which has left the Council with no alternative but to progress the acquisition of last resort which is the making of a Compulsory Purchase Order. We will continue to negotiate and discuss with the owners in order to avert this unnecessary action.
117. Alongside the legal department, Strategic Estates has prepared the necessary plans and notices to advertise the appropriation for planning purposes of the land currently in the ownership of the Council and the proposed land to be acquired under the Land Strategy.
118. Strategic Estates has supported the delivery team on the Conditions Precedent throughout the process and will continue to play a supporting role as and when required.
119. As part of the agreed terms for the acquisition of the Red Dragon Centre (RDC), in the event a planning application is submitted for development of an Arena on the RDC or the County Hall site by or on behalf of or with the consent of the Council, then there is an additional payment to be made 5 working days following submission of the planning application. Given the application is shortly to be submitted, this Cabinet is to note the requirement to make the payment.

RECOMMENDATION

Cabinet is recommended to:

- (i) Approve the Full Business Case for the new Indoor Arena as set out in Confidential Appendix 2.

- (ii) Confirm the Live Nation consortium as the successful bidder to be the Council's partner to deliver and operate a new Indoor Arena and Travelodge Hotel at Atlantic Wharf, Butetown;
- (iii) To note the legal advice mentioned at Paragraph 28 of this report and proceed with Option 1 as recommended at paragraph 9.10 of that advice;
- (iv) Approve the legal documentation as detailed in Confidential Appendix 5 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 legal documentation as detailed in Confidential Appendix 4 and in so doing approve any amendments to the legal documentation approved here as may be necessary, for reasons including but not limited to ensuring consistency between them and finalising any outstanding areas;
 - (b) approve any further deeds and documents which are ancillary to the legal documents approved here; and
 - (c) enter into all the necessary contractual documents associated with the delivery of the Arena.
- (v) Note the obligations that will be placed on the Council to support the delivery of the new Indoor Arena as set out in the Conditions Precedent document attached as Confidential Appendix 3;
- (vi) Approve in principle for a Compulsory Purchase Order for the acquisition of land outside of the Arena demise to facilitate the delivery of the wider Arena site and Atlantic Wharf masterplan.
- (vii) Pursuant to powers under Section 122 of the Local Government Act 1972 and Section 227 Town and Country Planning Act 1990, to facilitate the redevelopment of the land for an Indoor Arena in accordance with the development described in this report, to:
 - (a) approve the appropriation of the land that is within the Council's ownership edged red on the plan at Appendix 8 to planning purposes as it is no longer required for its current purpose; and
 - (b) delegate authority to the Director of Economic Development to take all steps necessary to appropriate to planning purposes:
 - (i) the land edged blue on the plan at Appendix 8 following the advertisement of all relevant public open space notices; and
 - (i) the land edged red on the plan at Appendix 8 following the surrender of the lease to Travelodge and the transfer of ownership of this land back to the Council;
- (viii) Approve for delivery associated enabling works to deliver the Indoor Arena and Travelodge Hotel as described in more detail in Confidential Appendix 2 and

the design development costs underwrite as detailed in Confidential Appendix 6.

SENIOR RESPONSIBLE OFFICER	Neil Hanratty Director of Economic Development
	Date

The following appendices are attached:

Appendices 2 – 7 of this report are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of part 4 of Schedule 12A of the Local Government Act 1972.

- Appendix 1 - Overview of the Procurement Process
- Confidential Appendix 2 - Full Business Case
- Confidential Appendix 3 - Condition Precedents
- Confidential Appendix 4 - Land Strategy Report
- Confidential Appendix 5 - Legal Suite
- Confidential Appendix 6 - Financial Report
- Confidential Appendix 7 - Legal Advice
- Appendix 8 - Land Appropriation

APPENDIX 1

Overview of Procurement Process

Pre-qualification Stage

- The initial stage of the procurement process involved the Council inviting bidders to express their interest by way of completion and submission of Pre-Qualification Questionnaires (“PQQ”).
- Eight PQQ applications were received prior to the deadline and following an evaluation process two bidders were invited to participate in the tender stages of the process.

Invitation to Submit Outline Solutions (“ISOS”) Stage

- The ISOS stage was the first stage of dialogue provided for in the process where the Council engaged with the two bidders who were successfully shortlisted at the PQQ stage.
- At the conclusion of the ISOS stage, bidders submitted Outline Solutions. Whilst these submissions were not formally evaluated by the Council their contents were considered to ensure that bids were sufficiently on track towards being sufficiently developed at the final stage of the process.
- Upon being satisfied with the progress of the Outline Solutions both bidders were invited to continue in dialogue with the Council via the issue of the Invitation to Continue Dialogue (“ITCD”) document in March 2020.

ITCD Stage

- The Council entered into further, more detailed dialogue with bidders to align the content of their bids with the Council’s strategic goals and objectives. Additionally, the Council tested the financial viability of the scheme within the prescribed affordability envelope with bidders to which reassurances were provided by both bidders.
- During this stage of the process the impact and disruption of the COVID-19 pandemic required the Council to seek further assurances from bidders to assess their business continuity plans and any contingency arrangements they may have in place.
- Further to the above, delegated approval was provided by Cabinet to refine the award criteria and weightings to allow the Council to assess bidders’ ability to deliver the project despite the disruption caused by the pandemic.
- Once Cabinet authority was received the ITCD stage was brought to a close by issuing the Call for Final Tenders (“CFT”) document to bidders.

CFT Stage

- This represents the final tender submission of the competition and the CFT confirmed the evaluation criteria, weightings and methodology that would be used to assess bidders' Final Tender submissions.
- Following the evaluation of final tenders in accordance with the methodology set out in the CFT document, the Council ranked the bidders to identify the most economically advantageous tender which the Council sought Cabinet authority to appoint as the Preferred Bidder.

Preferred Bidder Appointment

- Further to the above, Cabinet appointed the LiveNation consortium as the Preferred Bidder in November 2020. The Preferred Bidder stage represented a further stage of the procurement process. As such it did not constitute a contract award decision, signalling the conclusion of the competition.
- At the abovementioned meeting, Cabinet approval was also granted for the Council to enter into a Pre-Contract Services Agreement ("PCSA") with the LiveNation consortium. This arrangement governed the Preferred Bidder stage of the procurement process.

Preferred Bidder Stage

- The Preferred Bidder stage has enabled the Council to work with the LiveNation consortium to finalise the contractual arrangements and work up its design to deliver the Arena and the Travelodge Hotel.
- This final stage of the process has also allowed the Council and the LiveNation consortium to carry out further due diligence to mitigate any identified risks, to confirm Indoor Arena viability and affordability for both Council and the LiveNation consortium, as well as being sure both parties can satisfy State Aid (now Subsidy Control) requirements.
- In particular, the Council has utilised this stage of the competition to carry out further, more detailed financial due diligence on the LiveNation consortium's financial position. In addition, the Council has been able to confirm that the detailed cost plan and to ensure the project remains deliverable and within the Council's affordability envelope.
- The Preferred Bidder Stage of the competition has been completed successfully and approval is now sought to award a contract to the LiveNation consortium to deliver the Arena and conclude the procurement process.

By virtue of paragraph(s) 14, 16 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

APPENDIX 8

Land Appropriation

1. The Council is authorised by Section 122 of the Local Government Act 1972 (“Section 122”), to appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement. The Council is authorised to acquire land for planning purposes pursuant to sections 227 of the Town and Country Planning Act 1990. Before the land can be appropriated pursuant to Section 122, the land must no longer be required for the purpose for which it was held immediately prior to appropriation. The land owned by the Council for the purposes of the construction of the Indoor Arena is no longer required for its current purposes and is required to be held for a planning purpose and redeveloped for the purposes of an indoor arena in accordance with planning permission.
2. It is proposed that the land edged red in Plan identified as “Appropriation” is appropriated to planning purposes but a small part of this land cannot be appropriated now as the land is either (i) not within the Council’s ownership; or (ii) comprises public open space. There is a requirement to acquire the relevant land that is not within the Council’s ownership from third parties as part of the Indoor Arena proposals and it is proposed that these acquisitions are completed with a declaration for purchase for planning purposes. This will negate the need to appropriate further.
3. There are additional requirements in relation to the appropriation and/or disposal of open space. Section 122 (2A) of the Local Government Act 1972 requires a notice to be placed in a local newspaper for two consecutive weeks advertising the proposed appropriation of the land to planning purposes. Any objections that are received have to be properly considered before the appropriation and disposal takes place.
4. The proposed appropriation of the land edged blue and identified as “Public Open Space Notice” is currently used as part of the car parking with associated landscaping plus an area of open space comprises land that may be used as informal open space, will be advertised in due course and any representations received in relation to the proposed appropriation will be considered as part of a report to the Director for Economic Development authority should delegated authority be given to appropriate the land to planning purposes.
5. Where land has been appropriated for planning purposes (pursuant to section 122 Local Government Act 1972 and section 227 Town and Country Planning Act 1990), the consequence (under Section 203 of the Housing and Planning Act 2016) is that the erection, construction or carrying out of any building or other works on such land is authorised, notwithstanding that it may involve interference with third party rights where: (a) there is planning consent for the building or maintenance work; (b) the land has been acquired by the Council or appropriated by it to planning purposes; (c) the land could be acquired compulsorily for the purposes of the building or maintenance work; and (d) the building or maintenance work is for purposes related to the purposes for which the land was vested, acquired or appropriated as under (b). Where such rights are overridden compensation is payable.
6. Authority is sought to appropriate the land edged red and identified as “Appropriation Phase 1” that is within the Council’s ownership to planning purposes and delegated

authority is sought for the Director for Economic Development to appropriate the following land to planning purposes

- a. The part of the site edged blue following the advertisement of all relevant public open space notices;
 - b. The part of the site edged red that is currently leased to Travelodge once the lease has been surrendered and is within the entire control of the Council. This is outlined in the final plan attached entitled "Travelodge".
7. It is necessary in making a decision as to whether to support the recommendation to appropriate the land to planning purposes to give consideration to all relevant matters:

a) Whether the appropriation of the Council's land and the acquisition of the Developer's land will facilitate the carrying out of the redevelopment of the land;

By engaging Section 203 in respect of the Section 203 Land, the Council will have sufficient certainty that an injunction cannot defeat the proposed development. If an action is brought against the Council, the remedy will be compensation.

b) Whether the development of the land will contribute to the promotion or improvement of the economic, social or environmental well-being of the area;

The development would facilitate the delivery of a new indoor arena and will deliver the benefits described at section [36] of the report.

Overall the development will make a significant contribution to the economic, social and environmental well-being of the area. Its delivery is key to the regeneration of Atlantic Wharf.

c) Whether the use of Section 203 is proportionate with any interference with the human rights of those persons affected.

Human Rights issues arise in respect of the proposed arrangements. The Government guidance "Compulsory purchase process in Wales and the Crichel Down Rules (Wales Version 2020)" advises that compulsory acquisition (and therefore, by analogy, appropriation for planning purposes under s.122(1) Local Government Act 1972 or Section 122 (2A) Local Government Act 1972, which have the effect, by virtue of Section 203, of infringing Convention Rights) should consider (Part 1 Paragraph 20):

"...When making a CPO, acquiring authorities should be sure the purposes for which the CPO is made sufficiently justifies interfering with the human rights of those with an interest in the land affected.... Depriving an individual or business of their rights is a serious step which an acquiring authority should consider carefully"

Furthermore, under the Human Rights Act 1998 the Council is required to act in accordance with the European Convention on Human Rights ("ECHR") in deciding whether to implement the arrangements. Article 1 of the First Protocol of the ECHR provides that every natural or legal person be entitled to peaceful enjoyment of his or her possessions. Engagement of Section 203, to allow interference with private rights, involves interference with a person's rights under this Article. However, the right to peaceful enjoyment of possessions under Article 1 is a qualified rather than absolute right, as the wording permits the deprivation of an individual's possessions where it is in the public interest and is subject to the conditions provided for by law, and (in relation to

the right to respect for private and family life and a person's home) Article 8(2) allows for interference which is "in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of health and morals, or for the protection of the rights and freedoms of others."

There must therefore be a balancing exercise between the public interest and the individual's rights whereby any interference in the individual's rights must be necessary and proportionate. "Proportionate" in a context means that the interference must be no more than is necessary to achieve the identified legitimate aim. A "fair balance" must be struck between the rights of the individual and the rights of the public. It is for the Council to consider the issues raised in this report and to strike that "fair balance" in coming to its decision as to whether the land held within the Council's ownership that is required for the construction of the Indoor Arena should be appropriated to planning purposes.

It is considered that the public interest in appropriating the land to facilitate the development of the Arena outweighs the rights of the individuals to peaceful enjoyment of their possessions, and that the proposed use of Section 203 powers amounts to a proportionate interference in all the circumstances. In this regard, the availability of compensation to those who are deprived of their third party rights is of relevance to the issue of proportionality.

e) The acquisition and appropriation of the land required for the Development must be acquired or appropriated for 'planning purposes';

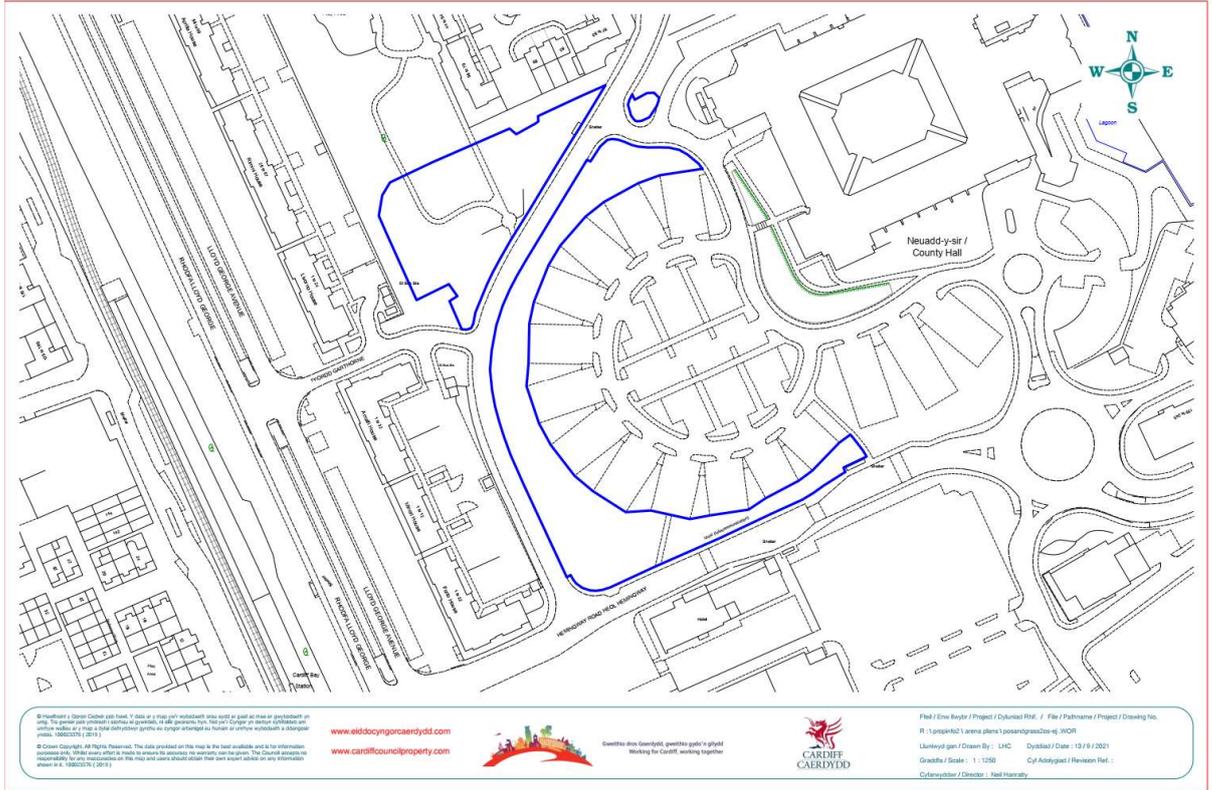
The Council's land is being appropriated to allow the comprehensive redevelopment of the land as will be provided for by the planning consent. The redevelopment of the land will deliver the planning objectives noted in the report. The appropriation of the Council's land is necessary in order to facilitate the development of the Indoor Arena.

f) The Third Party Rights affected by the Development and the likely extent of interference with those rights caused and whether such interference is reasonable;

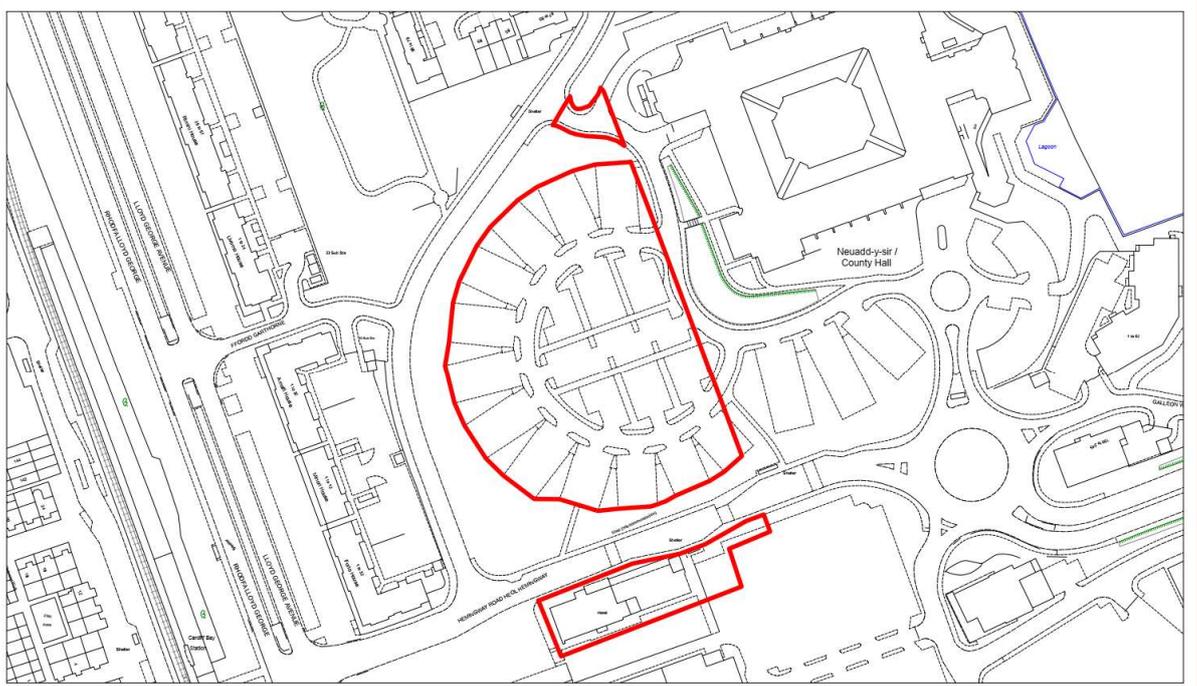
Parts of the Site are affected by the restrictive covenant that prevent any uses apart from uses as municipal offices ("the Covenant"). A release from the Covenant is being obtained in respect of a large part of the site, but other parcels are burdened by the Covenant and the Site is likely to be affected by other private rights and covenants including rights to light

Due regard will need to be had to the Council's Public Sector Equality Duty (PSED, in particular with respect to general duties arising under the Equality Act 2010, section 149.

Public Open Space Notice



Appropriation Phase 1



© Crown Copyright and Geomatics Great Britain. All rights reserved. This map is a reproduction of the Ordnance Survey map of Great Britain, and is not to be used for any other purpose without the permission of the Ordnance Survey. The Ordnance Survey name is a registered trademark of the Ordnance Survey.

© Crown Copyright. All Rights Reserved. This map is the best available and is for information purposes only. We make every effort to ensure the accuracy of the information on this map. The Council accepts no responsibility for any inaccuracies or omissions on this map and users should obtain their own expert advice on any information shown on it. 100023379 (2023)

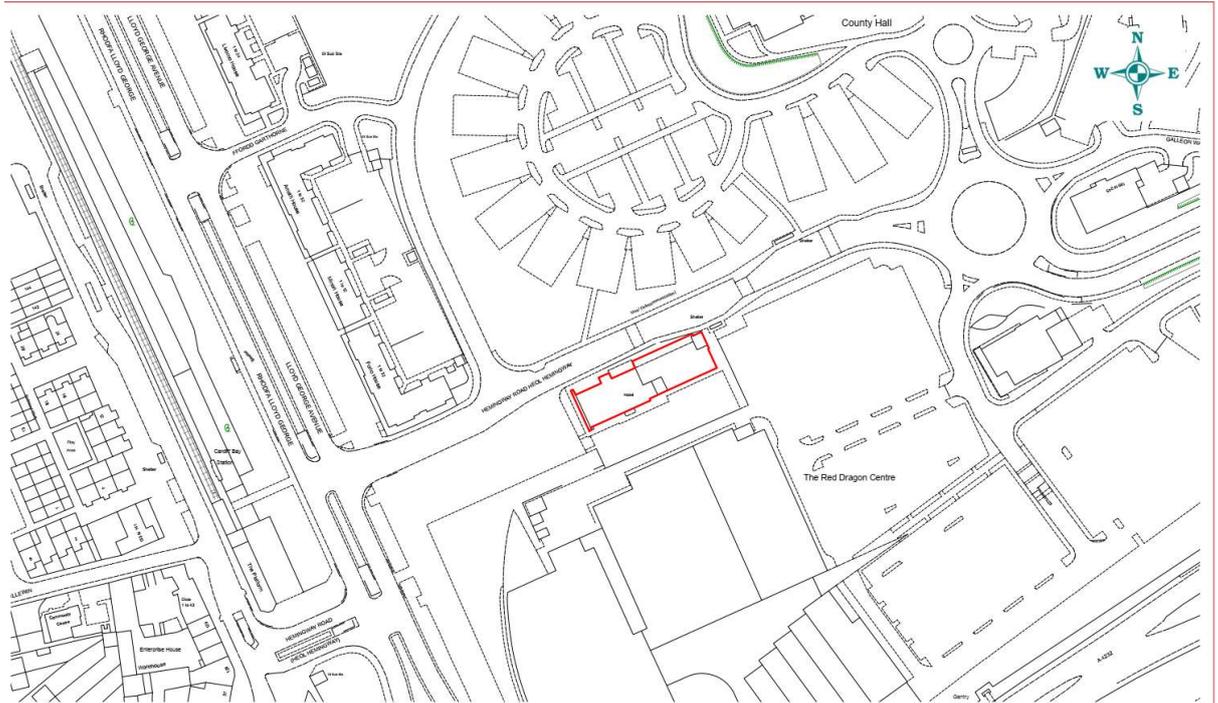
Gweithio diros Gaerdydd, gweithio gyda'n gilydd
Working for Cardiff, working together

CARDIFF
CAERDYDD

www.eiddocynorcaerdydd.com
www.cardiffcouncilproperty.com

Plan / Enw Reol / Project / Dyfyniad Rhif. / File / Pathname / Project / Drawing No.
R151-041612-20-0000-PlanAppropriationPhase1-POB231019-000-0000
Llyfrwyl / pen / Drawn By. / SF Outlined / Date / 14/09/2023
Graddfa / Scale: 1:1,250 Cofrestrwyd / Registered Plan. /

Travelodge



© Cardiff Council. All rights reserved. This plan is a copy of the original plan and is not to be used for any other purpose without the prior written consent of Cardiff Council. The plan is provided for information only and does not constitute an offer of any kind. The Council accepts no responsibility for any inaccuracies in the plan and does not warrant that any information shown is correct.

www.eidocymgorcaerdydd.com
www.cardiffcouncilproperty.com



Gwelirhau dim Gwelirhau, gwelirhau gwlir'n gwlir!
Working for Cardiff, working together



Plan / Enw Swydd / Project / Cofrestrad Rhif. / Ffôn / Pathwedd / Project / Drawing No.
R: 1 (proposed) / arwydd / drawing / RDCR
Llanfyrdd / Drawn By: LAC / Dyddiad / Date: 13/11/2021
Gwedd / Scale: 1:1250 / Cof Addysg / Revision Ref.:
Cofrestrad / Director: Neil Horvath

This page is intentionally left blank

CYNGOR CAERDYDD
CARDIFF COUNCIL

ECONOMY & CULTURE SCRUTINY COMMITTEE

20 SEPTEMBER 2021

**INTERNATIONAL SPORTS VILLAGE UPDATE AND DEVELOPMENT
STRATEGY: PRE-DECISION SCRUTINY**

Appendices 1 and 5-11 of the Cabinet Report attached at Appendix A are not for publication as they contain exempt information of the description contained in paragraphs 14, 16 and 21 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of the Report

1. To provide Members with background information to assist pre-decision scrutiny of the draft report to Cabinet titled '*International Sports Village Update and Development Strategy*', to be considered by Cabinet at their meeting on 23 September 2021.
2. Members should note that **Appendices 1 and 5-11** of the Cabinet report are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

Scope of Scrutiny

3. At their meeting on 23 September 2021, the Cabinet will consider a report seeking authority to acquire land and property assets at the International Sports Village (ISV), including the Ice Arena Wales building, and formally terminate the Waterfront Development Agreement with Greenbank Partnership Ltd (GPL) by mutual agreement.

4. The report also provides an update on progress with the leisure destination, including proposals to relocate the Cardiff Motocross from Tremorfa to the ISV and delivery of a 1km closed road cycling circuit around the perimeter of the site.
5. During this scrutiny, Members have the opportunity to explore:
 - i) The proposed land and property acquisitions
 - ii) The proposed termination of the Waterfront development agreement
 - iii) The proposed relocation of Cardiff Motocross
 - iv) The delivery of a closed road cycling circuit
 - v) Test the financial and legal implications for the Council and any risks to the Council
 - vi) Gain an understanding of the next steps and timelines involved; and
 - vii) Test the recommendations to Cabinet.

Structure of the meeting

6. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendices 1 and 5-11**.
7. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development), Neil Hanratty (Director of Economic Development), and Chris Barnett (Operational Manager – Major Projects). Members will be able to ask questions of the panel of witnesses.
8. Members will then be able to decide what comments, observations, or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

Background

9. In 2001, the administration's 'Ambitions for Cardiff' strategy document contained a commitment to "*progress the development of the £240m International Sports Village as the centre piece of Cardiff's plans to become a regional capital of*

sporting excellence". The commitment to this project was reiterated in the Ambitions for Cardiff 2002-03 as "*progress the development of the International Sports Village as the centrepiece of Cardiff's plans to become a European Sports/Leisure destination*".

10. As part of the regeneration project, the Council acquired ownership of tranches of land on the ISV site, which remain in Council ownership. Since then, a mixture of public and private sector investment has resulted in the following developments:

- i) Cardiff International Swimming Pool
- ii) Cardiff International White-Water Centre
- iii) Ice Arena Wales
- iv) Residential and Retail developments
- v) Pont y Werin Bridge.

11. In 2012, the Council signed a Development Agreement with Greenbank Partnership Ltd (GPL)¹ to construct a new Ice Arena and undertake work to secure a Snow Dome or equivalent alternative leisure facility, with the release of the Council-owned Waterfront site for mixed-use development.

12. In July 2017, the Council's new Administration set out a policy programme and associated delivery commitments in the Capital Ambition five-year plan. This contains a commitment to '*Set a refreshed vision for Cardiff Bay as a leisure destination, by securing a new visitor attraction, with the possible creation of a permanent "beach style" facility and revitalising the strategy for the International Sports Village.*'

13. Since then, the Council has had a dialogue with GPL regarding the next stages of ISV development. The global financial 'crash' and consequent impacts on property markets translated into localised delays in the roll-out of the Cardiff Pointe development; the Council responded by providing GPL with an extension to the Development Agreement timeline. In 2019, GPL informed the Council that

¹ GPL are the owners and developers of the adjacent Cardiff Pointe site and signed a Development Agreement with Cardiff Council, in 2012, to construct a new Ice Arena and undertake work to secure a Snow Dome or equivalent alternative leisure facility

they were entering a Joint Venture with a new development partner to complete Cardiff Pointe.

14. In March 2018, Cabinet provided authority for the Council to acquire 4.32 acres of land on the former Toys'R'Us retail building including a large service yard and circa 300 car parking spaces. The rationale for the acquisition was to improve the development potential of the Council's adjoining land holding known as Retail 3.

15. In October 2019, Cabinet approved a revised development strategy for the ISV, including considering land ownership, future operating models, and appropriate procurement processes to develop these.

16. In March 2021, Cabinet approved a new masterplan for the leisure component of the ISV, including in principle approval for a velodrome. In July 2021, Cabinet gave approval to proceed to detailed design of the velodrome, procurement of a contractor and submission of a planning application and agreed in principle to the allocation of the budget required to deliver the velodrome.

17. The draft report to Cabinet titled '*International Sports Village Update and Development Agreement*', is attached at **Appendix A** and has **11** appendices:

- **Confidential Appendix 1** - 2012 Development Agreement
- **Appendix 2** - Land ownership plan
- **Appendix 3** - Ice Arena Wales
- **Appendix 4** - ISV Masterplan 2021
- **Confidential Appendix 5** - Heads of Terms GPL
- **Confidential Appendix 6** - Knight Frank Valuation
- **Confidential Appendix 7** - Business Case (Land Disposal)
- **Confidential Appendix 8** - ISV Land ownership (Powell Dobson)
- **Confidential Appendix 9** - Business Case (Ice Arena)
- **Confidential Appendix 10** - Updated Masterplan
- **Confidential Appendix 11** - Finance Report

Issues identified in the Cabinet Report

18. The report to Cabinet sets out the background to the Waterfront Development Agreement with GPL and that development has stagnated for several years. At **point 7**, the report states that both parties have been reluctant to escalate to a

legal dispute. **Point 11** states that the Council, with the agreement of GPL, has proposed to acquire the assets owned by GPL at the ISV.

19. The report to Cabinet states that the benefits of the Council acquiring the GPL assets, including the Ice Arena Wales building, are:

- i) Formal mutual release freeing the land from any further rights claimed by GPL
- ii) The Council would have the freehold of all leisure assets at the ISV
- iii) Allow the Council to bring forward a new strategy to accelerate completion of the development
- iv) Enable the Council to address the concerns of residents at Cardiff Pointe
- v) Enable the Council to work to complete the ISV development and deliver a high-quality leisure and sport destination at this site.

20. **Point 14** highlights that the Council would like there to be a single operational agreement for all the facilities on the site.

21. **Points 18 -22** set out details re the acquisition of land, including:

- i) Heads of Terms for the acquisition of circa 10 acres of land and the Ice Arena Wales building have been agreed in principle with GPL and are set out in Confidential Appendix 5
- ii) An independent valuer's report, attached at Confidential Appendix 6, confirms the proposed transaction represents market value
- iii) The proposal is to complete the transaction in two stages, with the first stage taking place by the end of the calendar year
- iv) The Financial Report at Confidential Appendix 11 confirms the capital to acquire the assets comes from within existing allocated budgets
- v) The underpinning business plan, at Confidential Appendix 7, demonstrates the Council will recoup its capital outlay over a period of circa two years, with a series of smaller plots disposed of sequentially

- vi) Developers will be required to secure planning permission and commit to a build contract before disposals will be completed, to avoid land banking and promote delivery.

22. **Points 23 – 28** set out details on completing the leisure destination. Notably, the report to Cabinet states that the *'acquisition of GPLs assets will tie up the Council's capital resources allocated towards the delivery of the ISV project up until the end of December 2023 and potentially longer.'* The report states that this means the various projects set out in the masterplan will only be able to progress prior to that if they can be commercially funded or funded by sources other than the Council.

23. The report proposes that the Council will seek to progress business cases for each of the components in the masterplan, which will identify whether the project requires Council funding.

24. **Point 25** highlights a soft-marketing exercise has commenced to consider the commercial delivery of a new Multi Storey Car Park and that one will start shortly to seek investment into the Toys'R'Us building.

25. **Point 26** states that the current Management Agreement with the Cardiff Devils will be utilised until the long-term operational management of the whole leisure destination is resolved. The long-term options are set out in the business case attached at Confidential Appendix 9.

26. **Point 27** states that the site adjoining the Toys'R'Us building and car park at the ISV, known as Retail 3, has been identified as a potential site for the relocation of the Cardiff Motocross Track and Education. Further details are in Confidential Appendix 10.

27. **Point 28** sets out that both the Cardiff Motocross and the proposed Closed Road Cycle Circuit have the potential to benefit from the earthworks/civils package associated with delivery of the new Velodrome at the ISV. As such, it is intended

for the Outline Business Cases for both of these projects to be developed in time to be reported back to Cabinet at the same time as the final decision on the Velodrome project.

28. Financial Implications are set out in **Points 30-37** and include:

- i) Outstanding debts due to Council from Greenbank Partnership Ltd will be resolved as part of termination of Waterfront Development Agreement
- ii) Funding for this acquisition is available within the existing budgetary framework for the redevelopment of the International Sports Village
- iii) Confidential Appendix 7 sets out details of the independent land disposal business case
- iv) Confidential Appendix 11 sets out details of the cashflow management strategy to suitably manage the Council's overall financial exposure and realise receipts
- v) Any proposals must be self-financing, in line with the budgetary framework, and whilst this acquisition is funded by debt initially, it becomes self-financing within 2-3 years by breaking up land into separate parcels
- vi) Taking this decision will leave no further scope for additional capital expenditure at ISV over-and-above the acquisition of GPL land and assets referenced in this report and delivery of the Velodrome – further details are set out in Confidential Appendix 11
- vii) Confidential Appendix 6 provides an independent site valuation
- viii) Confidential Appendix 9 provides an independent review of the existing operation at Ice Arena Wales
- ix) Temporary and future operating arrangements for Ice Arena Wales must be a key consideration ahead of completing the purchase, to ensure the Council can operate this facility without any ongoing Council subsidy and ideally with a commercial return
- x) The transfer of employer responsibilities from Ice Arena Wales remains a risk and so it is important to have a suitable solution ahead of completing the transaction

- xi) Any costs/ revenues from Ice Arena Wales are the responsibility of the directorate and must be managed within existing revenue budgets, including capital expenditure and holding costs
- xii) Specific VAT advice will be required on proposals regarding disposal strategy and future use of land as well as future operational arrangements for Ice Arena Wales, as it is likely some limitations will need to be adhered to here in order to protect the Council's VAT partial exemption position.

29. Legal Implications are at **Points 38-49** and include:

- i) The ability of the Council to acquire land
- ii) For property transactions, the Council needs to comply with its acquisition of and disposal of land rules and procedures, including seeking advice of its qualified valuer
- iii) Re acquisition of the Ice Arena Wales, the appendices to the report set out the risks and liabilities to the Council from taking on the operation of the Ice Arena and the Heads of Terms allow for the Council to nominate a third party to operate in place of the Council. The Council will need to comply with its contract procedure rules and public procurement rules with regard to appointing any operator on its behalf
- iv) The Cabinet needs to take account of the Council's fiduciary duties to local residents and taxpayers, giving proper consideration to the risks, rewards and potential future liabilities of proposals
- v) Decisions about the recommendations need to be made in the context of the Council's public sector equality duties and duties arising from the Equality Act 2010, including the Socio-Economic Duty, the Well-Being of Future Generations (Wales) Act 2015, the Welsh Language (Wales) Measure 2011 and Welsh Language Standards
- vi) The proposals need to be within the policy and budgetary framework of the Council; otherwise, the proposals must be referred to Council.

30. **Property Implications**, at **Point 50**, state the need to ensure that land transactions, negotiations or valuations required to deliver the proposals are done in accordance with the Council's Asset Management process.

Proposed Recommendations to Cabinet

31. The report to Cabinet contains the following recommendations:

- (i) *Approve the acquisition of assets owned by Greenbank Partnership Ltd (including its subsidiaries) in accordance with the Heads of Terms set out at Confidential Appendix 5 and to 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 matters relating to legal completion of those assets and management of the Ice arena.*

- (ii) *Subject to (i) above, authorise the formal termination of the International Sports Village Development Agreement with Greenbank Partnership Ltd attached as Confidential Appendix 1 by mutual agreement.*

Previous Scrutiny

32. Following scrutiny in **March 2018**, the Chair's letter² highlighted:

'Members wish to undertake further scrutiny of the proposals for revitalising the ISV, as these come forward... We look forward to these including details on proposed improvements to pedestrian and cycle routes in the Bay, thus enhancing the visitor and resident experience.'

33. In **November 2018**, following scrutiny of a report to Cabinet regarding land at Harbour Drive, the Chair, Councillor Nigel Howells, wrote to Councillor Russell Goodway, Cabinet Member- Investment & Development, stating³:

'Members are supportive of the proposal to purchase land in order to protect the Bay edge for leisure use and to provide opportunities for appropriate investment to enhance further the amenity of Cardiff Bay. Members are

² Letter from Cllr Howells, Chair Economy & Culture Scrutiny Committee, to Cllr Goodway, Cabinet Member Investment & Development, dated 9 November 2018.

reassured to hear that officers are working on an overall Cardiff Bay masterplan, which will include this site.'

34. In **October 2019**, following their scrutiny, the Chair, Councillor Nigel Howells, wrote to Councillor Russell Goodway, Cabinet Member- Investment & Development, stating⁴:

- i) Overall, Members recognise *'the need to utilise a pragmatic strategy to finish the ISV and ensure benefits to the surrounding communities and across Cardiff and the region'*
- ii) *'it is critical that we apply the lessons learnt from earlier schemes regarding how best to build a sense of place and a sense of community...how to best factor in appropriate, open spaces for residents to meet and interact; at the meeting, ideas mentioned included pocket parks and community buildings. Members were pleased to hear assurances that trees and greenery would be part of the development'*
- iii) *'Members recognise the need to enhance the leisure offer and believe that adventure tourism products will bring economic benefits to the area; the need to boost the transport infrastructure is appreciated and Members are pleased that public and active transport infrastructure are highlighted for improvement and enhancement.'*

35. On **11 March 2021**, this Committee scrutinised the proposed new masterplan for the leisure component of the ISV, authority to develop a detailed business case, in principle approval for a velodrome and authority to develop a velodrome detailed business case and develop a planning application. Following the scrutiny, the Chair, Councillor Howells, wrote a confidential letter to Councillor Russell Goodway, Cabinet Member- Investment & Development, capturing the committee's comments, observations and requests. Councillor Goodway responded to this letter on 18 March 2021. Copies of these letters have been shared with committee members, by email, ahead of this meeting.

36. On **13 July 2021**, this Committee scrutinised the Outline Business Case for the development of the velodrome, proposals to proceed to detailed design, procurement of a contractor and submission of a planning application and

⁴ Extracts taken from letter from Cllr Howells, Chair Economy & Culture Scrutiny Committee, to Cllr Goodway, Cabinet Member Investment & Development, dated 4 October 2019.

agreement in principle to the allocation of the budget required to deliver the velodrome. Following this scrutiny, the Chair, Councillor Howells, wrote two letters to Councillor Goodway, Cabinet Member – Investment and Development, a public letter, and a confidential letter. The public letter is attached at **Appendix B**, along with the response received from Councillor Goodway, and the confidential letter has been shared with committee members, by email, ahead of this meeting.

Way Forward

37. Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development) and Chris Barnett (Operational Manager – Major Projects) will attend and all witnesses will be available to answer Members' questions on the proposals.

38. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 1 and 5-11**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

39. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

40. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 23 September 2021, and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

14 September 2021

CABINET MEETING:

23 September 2021

**INTERNATIONAL SPORTS VILLAGE UPDATE AND
DEVELOPMENT STRATEGY**

INVESTMENT & DEVELOPMENT (CLLR RUSSELL GOODWAY)

AGENDA ITEM:

PORTFOLIO: INVESTMENT & DEVELOPMENT

Appendices 1 and 5-11 of this report are not for publication as they contains exempt information of the description contained in paragraphs 14, 16 and 21 of Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To seek authority to acquire property assets at the International Sports Village comprising of circa 10 acres of land and the Ice Arena Wales building to consolidate the Council's ownership at the site and to accelerate completion of the development.
2. To seek authority to formally terminate the Waterfront Development Agreement with Greenbank Partnership Ltd (via its subsidiary Helium Miracle 123 Limited) by mutual agreement.
3. To update on progress with the leisure destination including proposals for the relocation of the Cardiff MX facility from Tremorfa to the International Sports Village and delivery of a 1 km Closed Road Cycling Circuit around the perimeter of the site.

Background

4. In 2012, the Council entered into a long-term Development Agreement for the redevelopment of the International Sport Village (ISV) with Greenbank Partnership Ltd (GPL), the owners of the adjacent Cardiff Pointe site, following a market procurement exercise. The Development Agreement, attached as Confidential Appendix 1, relates only to land in Council ownership. A plan illustrating the various land ownerships and interests at the ISV and the land

subject to the Development Agreement, including a phasing plan, is attached at Appendix 2.

5. The Development Agreement sets out the development of the Council's land in two phases. The first phase is based on the development of a new twin-pad, 3000 capacity, Ice Arena. GPL has delivered the Ice Arena and the details are set out at Appendix 3. Following delivery of phase one, the Development Agreement provided for release of the second phase on commitment by GPL to deliver a 150+m indoor, real snow, Ski-Slope. The proposed Ski Slope was to be subsidized through surrounding development including a significant level of retail development. However, by the time the Ice Arena was completed and GPL were ready to move into the second phase, the market for retail development had changed, and this in turn meant the Ski-Slope proposal had become commercially undeliverable.
6. At the same time as delivering the Ice Arena, GPL progressed 100 units of private housing development on their own land at Cardiff Pointe. They also delivered the affordable housing obligation for the whole Cardiff Pointe site upfront, consisting of circa 160 units, on two separate sites within the wider ISV area.
7. Development at the International Sports Village has now stagnated for a number of years. Progress under the Development Agreement has been slow due to a disagreement between the Council and GPL relating to the fulfilment of conditions for the next phase of development (i.e. commitment to deliver the Ski Slope or a reasonable alternative). Both parties have been extremely reluctant to allow the matter to escalate into a legal dispute, preferring instead to try to find an amicable way forward.
8. The Council remains committed to completing the ISV development and to delivering a high quality leisure and sport destination at the site. In March 2021, Cabinet agreed a new masterplan for the leisure element including a proposal for a new Velodrome to replace the existing cycle track at Maindy, The approved masterplan is attached at Appendix 4.
9. In July 2021, Cabinet agreed to progress a Full Business Case for the delivery of the new Velodrome with the target of works commencing on-site early in 2022 and for the new facility to be fully operational by spring 2023.

Issues

10. The International Sports Village is a high profile project that has been under development by the Council for over two decades following initial land reclamation and remediation works. In recent years the development has effectively ceased and the site has consequently suffered from significant uncertainty for an extended period. The Development Agreement between the Council and GPL that was designed to facilitate development has effectively served to frustrate progress over recent years.
11. In order to avoid legal proceedings which could add significant additional delay to development recommencing the Council with the agreement of GPL has proposed to acquire the assets owned by GPL at the ISV. This will enable the

Council to obtain a formal mutual release of the existing Development Agreement, freeing the land from any further rights claimed by GPL and will allow the Council to bring forward a new strategy to accelerate completion of the development.

12. The proposal to acquire the assets owned by GPL will also enable the Council to address concerns raised by residents of the Cardiff Pointe development. Housing development at Cardiff Pointe has also stagnated in recent years and this has created significant uncertainty for existing residents who have found themselves in a position where their properties have become difficult to sell. The area looks unfinished with much of the site undeveloped and without a plan for completion. The housing units developed by GPL are also subject to a housing management arrangement requiring residents to pay a service charge. At present the level of charges is skewed due to the low numbers of completed properties. Whilst the delays in completing the development continue, the costs of this arrangement are borne by the residents. The Council has received significant representations from the residents of Cardiff Pointe encouraging the Council to facilitate completion of the development as soon as possible.
13. The leisure destination remains a key priority for the Council, included as an objective in the Council's Corporate Plan. Over the years, the Council has invested in a number of state-of-the-art facilities such as the International Pool and the International White Water Rafting Centre and FlowRider. However, the leisure destination remains unfinished and at present does not hang together as a single attraction. The Council has published plans to develop a new Velodrome on the site and has set out its aspiration to add further facilities such as a closed road cycling circuit, a bigger high ropes attraction across the site, a new electric motorcross and off-road bike facility, much improved public realm to provide space to host events, and coherent car parking arrangements.
14. The consolidation of the currently disparate attractions into a single destination requires a new approach to the operation, management and maintenance of the site. The Council would like to facilitate all of the facilities being operated together under a single operational agreement:
 - to ensure a single approach to the management and maintenance of the buildings and the public realm/landscaping;
 - to market and promote all of the attractions as a single destination to visitors;
 - to manage car parking and the food and beverage offer across the whole site.
15. This is a long-term plan which may take time to deliver due to existing operational commitments and agreements. The Council's proposals for the completion of the leisure destination will mean that only the Ice Arena would sit outside of the Council's control. However, the proposal to acquire the assets owned by GPL includes the acquisition of the Ice Arena, which would mean the Council would have full control of all leisure assets at the ISV.

Development Agreement

16. The Council has been in dialogue with GPL over an extended period of time to find a solution to allow development under the Development Agreement to progress. As illustrated in Appendix 2, GPL currently has a number of adjacent

land interests including Cardiff Pointe, the International Pool car park site and the Ice Arena and associated land. Their assets are allocated in the LDP and they have secured planning permission for circa 700 new homes across their holdings.

17. To avoid legal dispute and further consequent delay the Council has proposed to acquire the assets owned by GPL. GPL has agreed to this proposal on the basis that it is a comprehensive acquisition of all assets. Completion of the acquisition will formally terminate the existing Development Agreement.

Acquisition of Land

18. Heads of Terms for the acquisition of circa 10 acres of land and the Ice Arena building have been agreed in principle with GPL and are set-out at Confidential Appendix 5. An independent valuers report is attached as Confidential Appendix 6, which confirms that the proposed transaction represents market value. The proposal is to complete the transaction in two stages with the first transaction of taken place by the end of the calendar year.
19. The Council capital to acquire the assets comes from within existing allocated budgets as set out in the Financial Report attached as Confidential Appendix 11.
20. The acquisition is based on a business plan and appraisal which demonstrates that the Council will recoup its capital outlay over a period of circa two years. The disposal strategy involves the creation of a series of smaller plots which will be disposed of sequentially. Developers will be required to demonstrate a commitment to deliver development through securing a planning permission and committing to a build contract before disposals will be completed to avoid land banking and to promote delivery. The business plan and appraisal is attached as Confidential Appendix 7.
21. It is intended that a soft market exercise will commence in October to identify developers so that the Council is ready to progress with the first disposals as soon as the transaction is completed with GPL at the end of the year.
22. The transaction includes the acquisition of the Ice Arena development. The Ice Arena has been independently valued as a depreciating asset (see Confidential Appendix 6). The acquisition of the Ice Arena will enable the Council to retain the freehold interest in the whole of the leisure destination over the long term. The Council will seek to lease the leisure assets on operational terms over a relatively short period of circa 30-35 years.

Completion of the Leisure Destination

23. As set out above, the acquisition of GPL's assets will tie up the Council's capital resources allocated towards the delivery of the ISV project up until the end of December 2023, and potentially longer. This means that the various projects set out in the masterplan released by the Council in March 2021 (see Appendix 4) and the updated masterplan (attached as Confidential Appendix 10) will only be able to progress in advance of the recovery of the Council's capital investment

if they can be commercially funded, or funded via sources other than the Council.

24. In order to fully understand the costs associated with each of the components of the masterplan the Council will seek to progress businesses cases. If the business case confirms that the project requires Council funding, delivery of the project will need to wait until the Council has recovered its investment in acquiring Greenbank's assets. A project would only be able to progress in advance of that if it can be brought forward commercially or by using funding from alternative non-Council sources.
25. The Council has already commenced a soft-marketing exercise to consider the commercial delivery of a new Multi Storey Car Park (MSCP). Cabinet has also provided authority for a soft marketing exercise to be undertaken to seek to attract investment into the Toys'R'Us building which will commence this month.
26. The Council will be acquiring the Ice Arena as part of acquiring GPL's assets. The current Management Agreement with the Cardiff Devils will be utilized until the long-term operational management of the whole leisure destination is resolved. The long-term options are set out in the business case attached at Confidential Appendix 9.
27. In 2018, Cabinet agreed to the disposal of the Former Frag Tip site which currently accommodates the Council run Motocross Track and Education site (known as Cardiff MX). A significant financial contribution has been secured as part of the disposal of the Former Frag Tip site to support the relocation of the Cardiff MX facility to an alternative site in Cardiff. The site adjoining the Toys'R'Us building and car park at the ISV, known as Retail 3, has been identified as a potential site for the relocation of the facility. The plans at Confidential Appendix 10 set out the area required for this new facility. The Council will now take forward an Outline Business Case to consider the feasibility of this proposal.
28. The masterplan released in March also proposed the delivery of a Closed Road Cycle Circuit around the perimeter of the leisure destination. Both the Cardiff MX and the proposed Closed Road Cycle Circuit have the potential to benefit from the earthworks/civils package associated with delivery of the new Velodrome at the ISV. As such, it is intended for the OBC's for both of these projects to be developed in time to be reported back to Cabinet at the same time as the final decision on the Velodrome project.

Reasons for Recommendation

29. To acquire the land interests and conclude the development agreement on the ISV and proceed with the delivery of the wider masterplan.

Financial Implications

30. This report seeks authority to acquire the assets of Greenbank Partnership Ltd at the International Sports Village (ISV), comprising of both land as well as the Ice Arena Wales property and assets, to consolidate the Council's ownership at the site and to accelerate completion of the ISV development. In doing so,

permission is also sought by this report to terminate the existing Waterfront Development Agreement with Greenbank Partnership Ltd at the International Sports Village, which has been subject to a dispute between the parties in recent years, in an effort to avoid the need for legal action by either party. Outstanding debts due to Council from Greenbank Partnership Ltd will also be resolved as part of termination of Waterfront Development Agreement.

31. The terms of the acquisition for the land and property assets of Greenbank Partnership Ltd are set out within agreed Heads of Terms in **Confidential Appendix 5**. Funding for this acquisition is available within the existing budgetary framework for the redevelopment of the International Sports Village, although any proposals brought forward must be on a self-financing basis in line with the budgetary framework. The acquisition of land and property from Greenbank Partnership Ltd is to be funded by debt initially, albeit a strategy is in place to enable this to become self-financing within 2-3 years by breaking up land acquired into separate parcels, then marketing and disposing of packages of land to third parties for immediate development. Details of this independent land disposal business case are included at **Confidential Appendix 7**. This land disposal business plan will be subject to agreement of a suitable cashflow management strategy, both to realise receipts and to suitably manage the Council's overall financial exposure during this period, and then actually delivering against that strategy. Further details of cashflow management strategy are included within **Confidential Appendix 11**.
32. Cabinet should note that whilst this acquisition can be completed within the existing budgetary framework, taking this decision will leave no further scope for additional capital expenditure at ISV within current budgetary framework over-and-above the acquisition of Greenbank Partnership Ltd land and assets referenced in this report, and delivery of the Velodrome (approved in principle at July Cabinet). This means any further plans for expenditure at ISV not referenced above cannot proceed currently within the existing budgetary framework. All other planned expenditure on other items contained within the revised ISV masterplan previously approved by Cabinet in March 2021, but not yet brought forward for Cabinet approval, must therefore be paused. On this basis no further decisions, commitments or capital expenditure on ISV can occur in this financial year, or until such a time as sufficient capital receipts have been received to cover any additional planned expenditure within the existing budgetary framework. Further details can be found within **Confidential Appendix 11**.
33. In accordance with the Council Constitution, any acquisition or disposal of Council land must be supported by an independent site valuation to demonstrate value for money. The independent valuation report for the acquisition of land and assets of Greenbank Partnerships Ltd is included as **Confidential Appendix 6**. The development appraisal and proposed business case for land disposals, along with a proposed indicative programme with anticipated timeframes and initial net proceeds of sale are included at **Confidential Appendix 7**.
34. Ice Arena Wales will be acquired by Council as part of this deal on terms set out in **Confidential Appendix 5**. All Ice Arena Wales assets will therefore transfer to Council as part of this agreement. An independent review of the existing

operation at Ice Arena Wales, including the operational business plan costs and revenues along with the likely return achievable on an asset of this nature, is included within **Confidential Appendix 9**.

35. The Council will take over responsibilities for the Ice Arena (and the costs associated with it) from completion of its purchase of the land in phase 1 (December 2021) until it completes its purchase of the Ice Arena (December 2022) and into the future. Temporary and future operating arrangements for Ice Arena must therefore be a key consideration ahead of completing this purchase. Ice Arena Wales is currently operated by Cardiff Devils, although it is recognised that the current management agreement in place with Ice Arena Wales is unlikely to remain suitable in the long-term, so both the interim and future operational arrangements of Ice Arena must be a key consideration for the Council upon acquisition. A new management agreement with Devils Entertainment Ltd, or a new operator altogether may need to be found, so directorate will need to have a clear understanding of suitable parties and likely terms of operational leases or management agreements to ensure the Council can operate this facility without any ongoing Council subsidy, and ideally with a commercial return. The transfer of employer responsibilities from Ice Arena Wales also remains a risk as part of the acquisition, so it is important a suitable solution is found here ahead of completing the transaction
36. Any costs/revenues generated from leases or management agreements put in place for operation of Ice Arena will be responsibility of directorate and must be managed within existing revenue budgets. This should include any surpluses or subsidies required to operate the facility, as well as any capital expenditure which may be required in improving or up keeping the existing facility. All holding costs of the land and assets acquired as part of this transaction will also need to be met from within existing directorate budgets.
37. Careful consideration must be given to the VAT implications of these proposals. All sites will be opted to tax upon acquisition, so specific VAT advice will be required on proposals regarding disposal strategy and future use of this land which must be taken into account during the decision making process. Importantly, the future operational arrangements for Ice Arena Wales must also be a strong consideration ahead of the acquisition, as it is likely some limitations will need to be adhered to here in order to protect the Council's VAT partial exemption position.

Legal Implications

38. Section 120 of the Local Government Act 1972 enables the Council to acquire land for either (a) the benefit, improvement or development of its area or (b) for any of its functions under any enactment. The Council's Disposal and Acquisition of Land Procedure Rules requires the decision maker to have regard to advice from a qualified valuer, to ensure value for money. The Council Legal Services will be required to undertake legal due diligence, including any matters highlighted in the Valuer's report prior to exchange of contracts.
39. It is understood that part of the proposal will require the Council to take on the operation of the Ice Arena prior to its acquisition of that asset, further details of

risk and liabilities which are highlighted in the appendices to this report, particularly with regard to TUPE. The heads of terms allow for the Council to avoid this by nominating a third party to operate in place of the Council, which the intention of taking on the operation directly from the seller. The Council will need to comply with its contract procedure rules and Public procurement rules with regard to appointing any operator on its behalf.

40. 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.

Equalities & Welsh Language

41. 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.
42. 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 socio-economic 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.
43. 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.
44. 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

45. 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 2020 -23.

46. 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.
47. 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
48. 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

49. 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

50. The Strategic Estates Department has been closely involved in estates advice pertaining to the Velodrome & International Sports Village Development strategy. Where there are resultant land transactions, or further negotiations or valuations required to deliver future proposals, they should be done so in accordance with the Council's Asset Management process and in consultation with Strategic Estates and relevant service areas.

RECOMMENDATION

Cabinet is recommended to:

- (i) Approve the acquisition of assets owned by Greenbank Partnership Ltd (including its subsidiaries) in accordance with the Heads of Terms set out at Confidential Appendix 5 and to 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 matters relating to legal completion of those assets and management of the Ice arena.

- (ii) Subject to (i) above, authorise the formal termination of the International Sports Village Development Agreement with Greenbank Partnership Ltd attached as Confidential Appendix 1 by mutual agreement.

SENIOR RESPONSIBLE OFFICER	Neil Hanratty Director of Economic Development
	Date

The following appendices are attached:

- Confidential Appendix 1 - 2012 Development Agreement
- Appendix 2 - Land ownership plan
- Appendix 3 - Ice Arena Wales
- Appendix 4 - ISV Masterplan 2021
- Confidential Appendix 5 - Heads of Terms GPL
- Confidential Appendix 6 - Knight Frank Valuation
- Confidential Appendix 7 - Business Case (Land Disposal)
- Confidential Appendix 8 - ISV Land ownership (Powell Dobson)
- Confidential Appendix 9- Business Case (Ice Arena)
- Confidential Appendix 10 - Updated Masterplan
- Confidential Appendix 11 - Finance Report

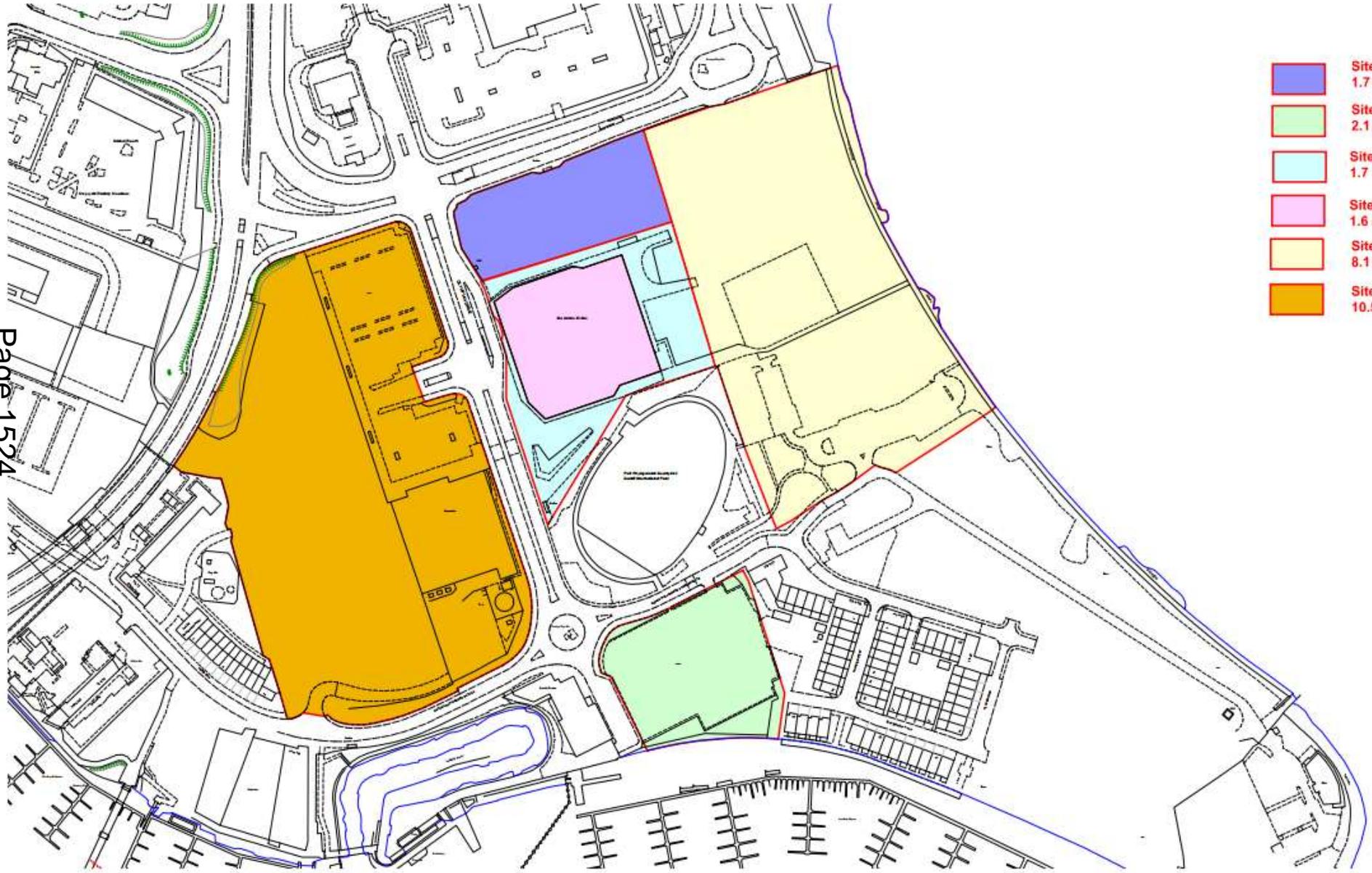
By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



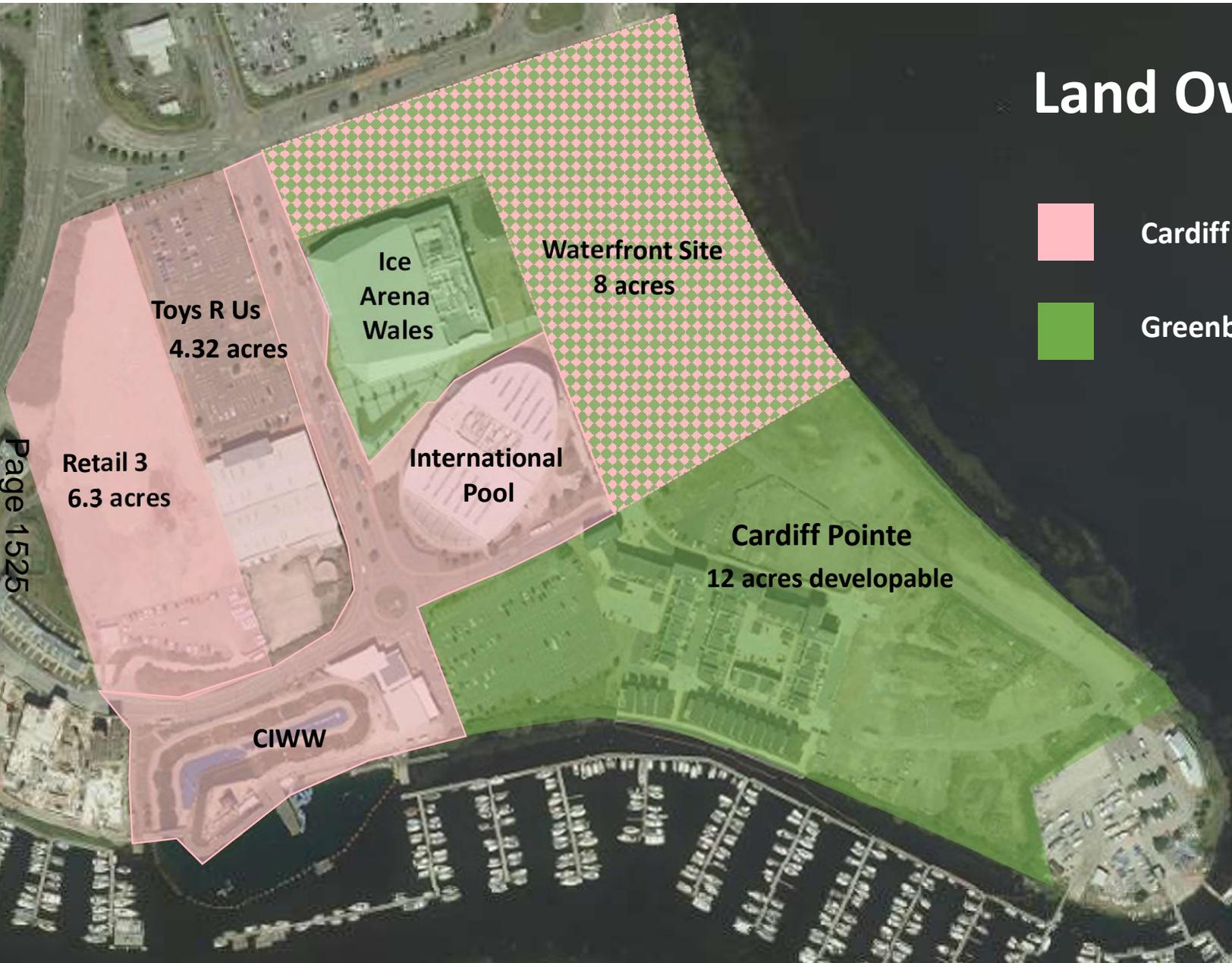
APPENDIX 1
International Sports Village
Site Plans



	Site A 1.7 acres
	Site B 2.1 acres
	Site C 1.7 acres
	Site D 1.6 acres
	Site E 8.1 acres
	Site F 10.52 acres

Land Ownership

- Cardiff Council
- Greenbank



Existing Development

Ice Arena Wales

International Pool

Toys R Us

Housing Development

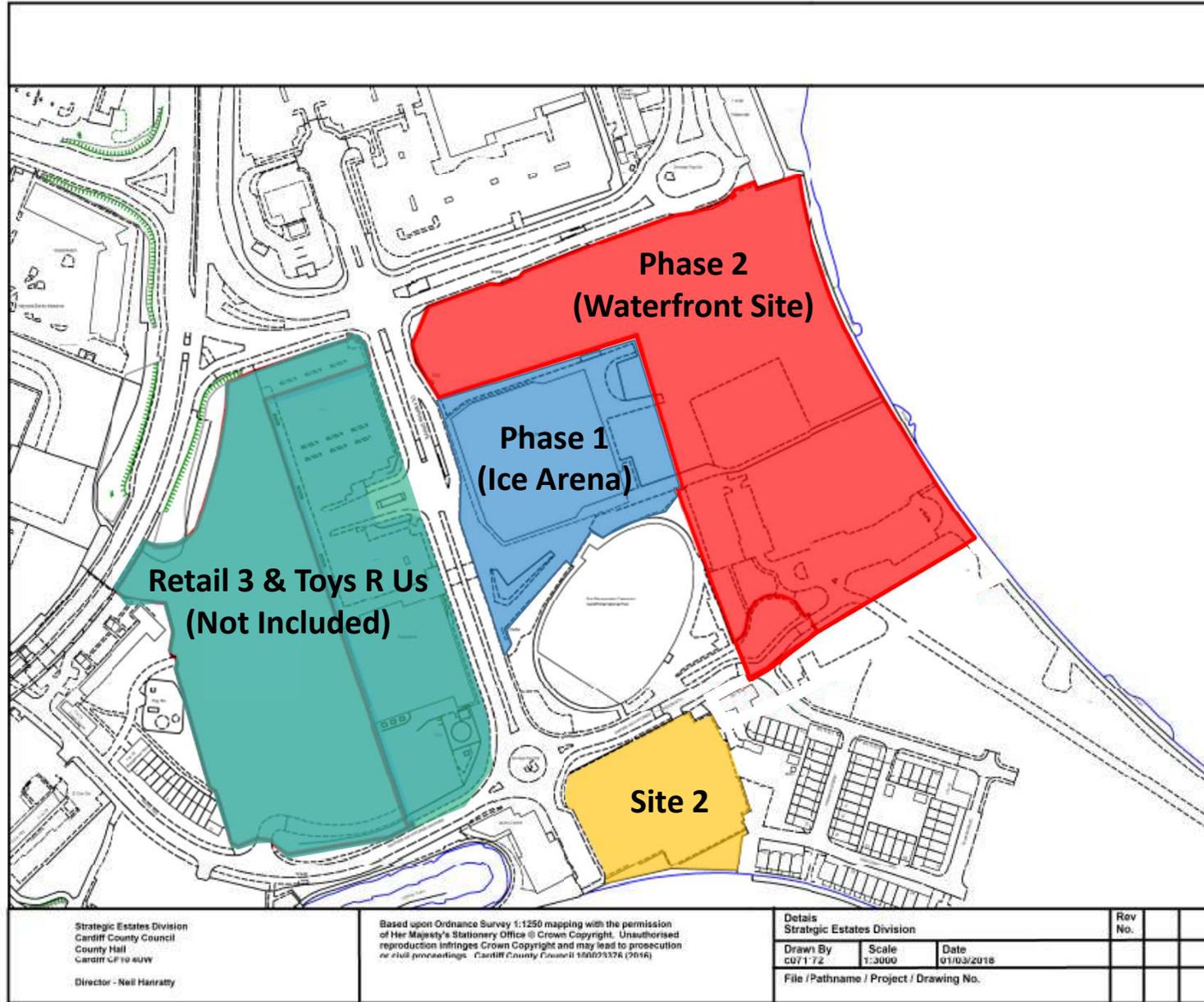
Cardiff International White Water

Page 1526



Development Agreement

Page 1527



This page is intentionally left blank

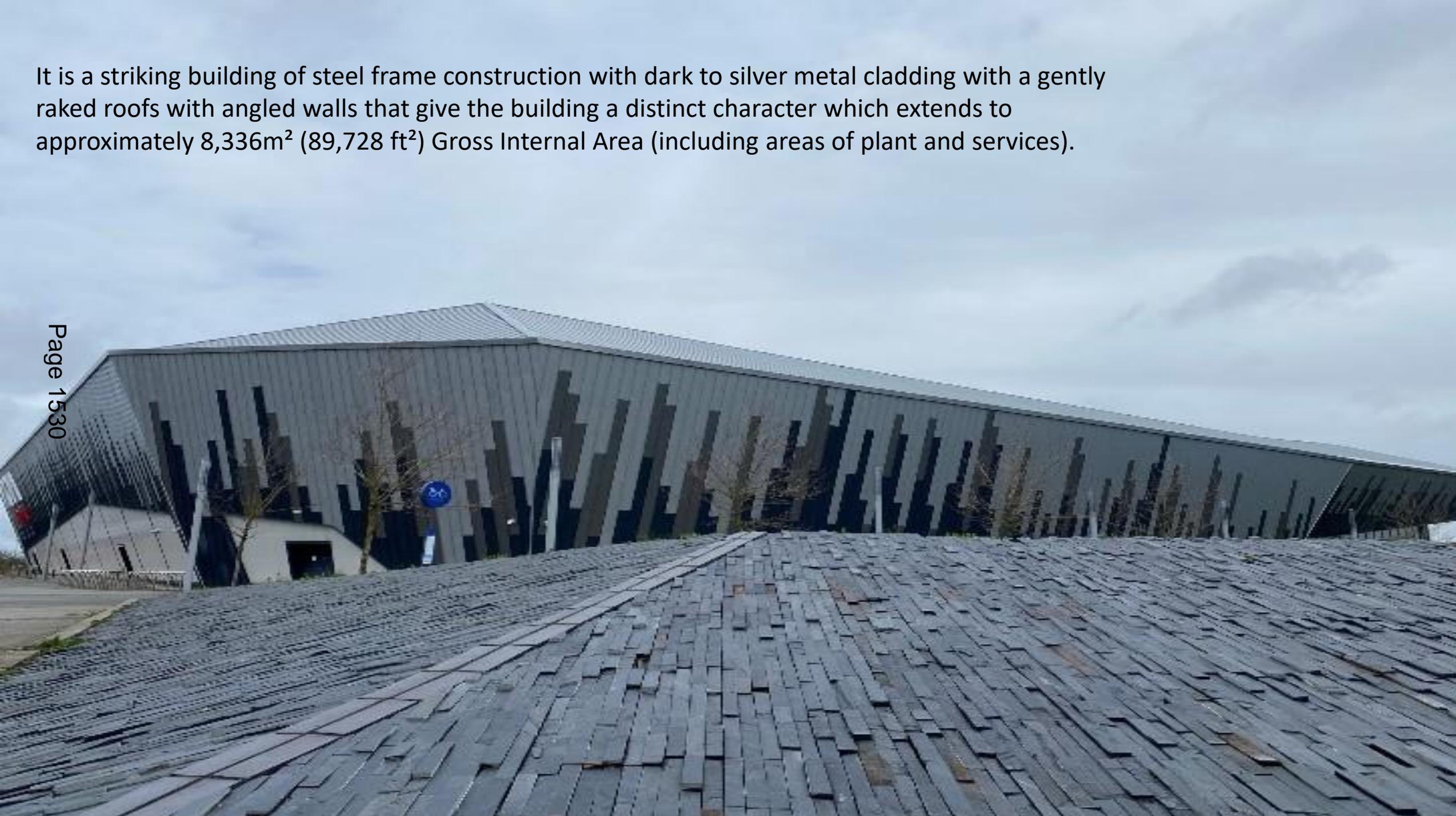
Ice Arena Wales

Completed in 2016 the Ice Arena was built not only to provide a permanent home for the Cardiff Devils ice hockey team, who play in the top tier of ice hockey in the UK - the British Elite Ice Hockey League.

Also, this also to provide a permanent multipurpose ice facility for the various clubs and a public facilities for the City.

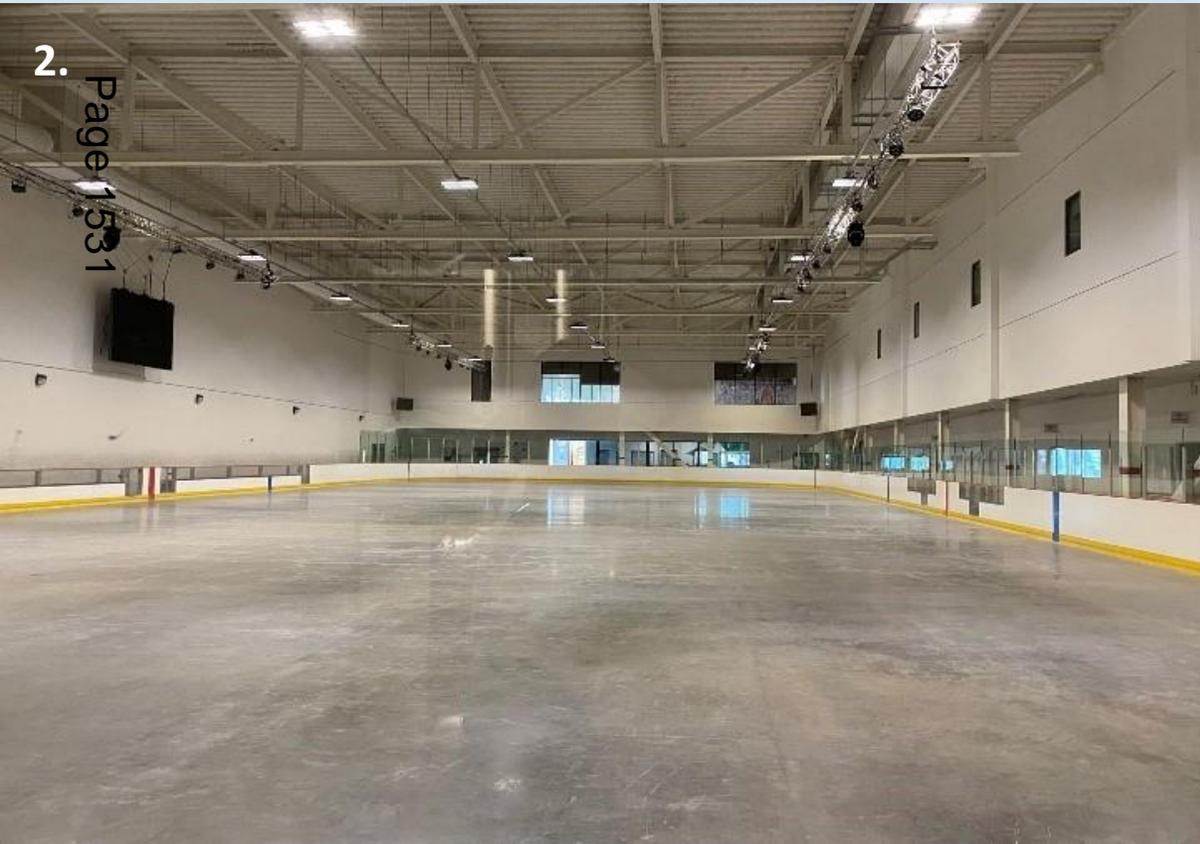


It is a striking building of steel frame construction with dark to silver metal cladding with a gently raked roofs with angled walls that give the building a distinct character which extends to approximately 8,336m² (89,728 ft²) Gross Internal Area (including areas of plant and services).



The Ice Arena comprises two ice rinks or 'pads'.

1. The main rink being 60m x 30m and primarily used for competition and training, with a seating capacity of 3,100.



2. The smaller rink is 54m x 27m and is the main public rink with no seating provision.

The comprehensive accommodation is arranged over two floors as follows:-

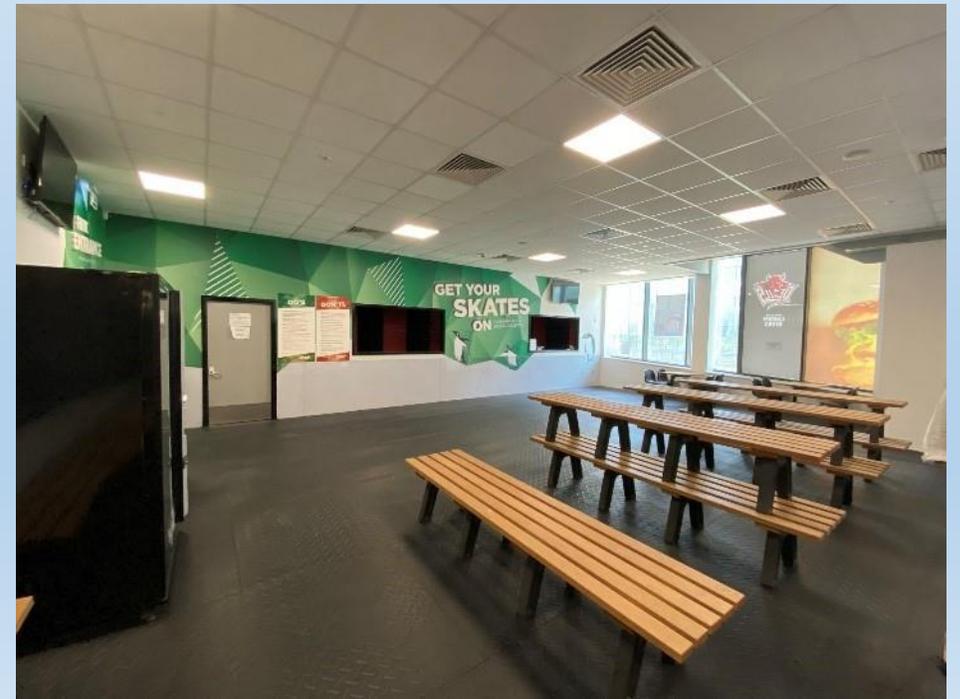
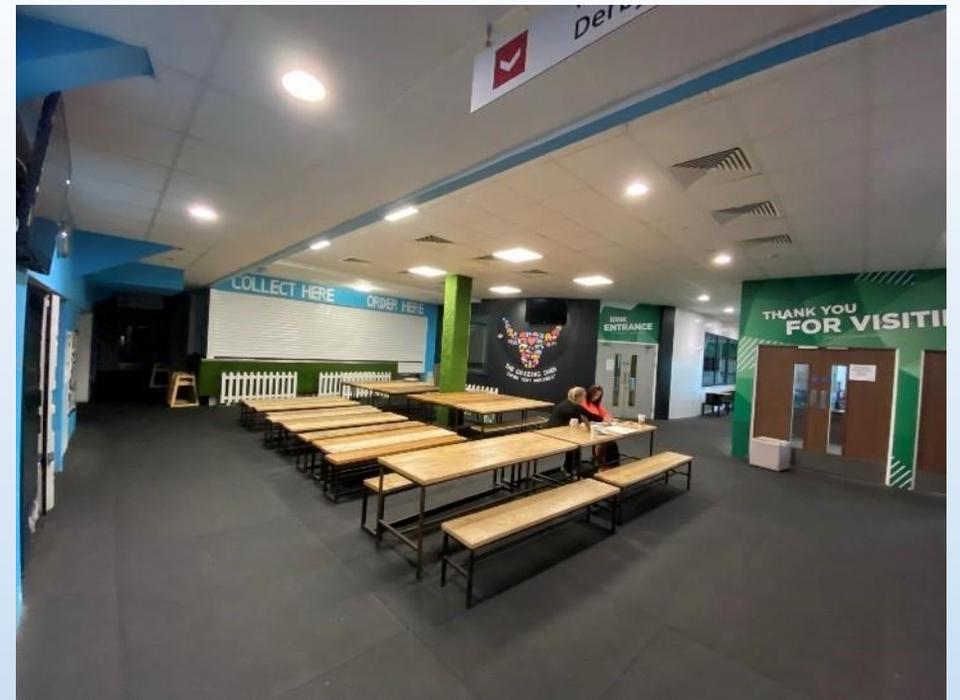
Ground Floor -

- Foyer entrance with reception desk and office
- Skate Hire and shoe change area with access to 'pad' 2
- Skate Shop

Page 1532
The Grazing Shed café – with seating for approximately 50, and ancillary kitchen with servery

Also:

- Public changing rooms
- First aid and toilet facilities
- Team changing
- Staff Changing
- Meeting Rooms
- Storage
- Ice Cleaning and Resurfacing Equipment
- Devils Ticket Office
- Plant Room
- Physiotherapy Suite



First Floor - Served by various stairs and two lifts

- Main tier of seating to pad 1 with rear circulation walkway.
- Licensed Bar – overlooking pad 2 and providing an open plan space with server
- Storage and office.
- Public toilets .
- Hospitality boxes x 4
- Players weights room / gym.
- Players ice shots room / simulator.

Mezzanine - Accessed via a gantry at first floor

- Providing a mezzanine area with 'TV' gantry overlooking pad 1, with roof access.

Roof Level

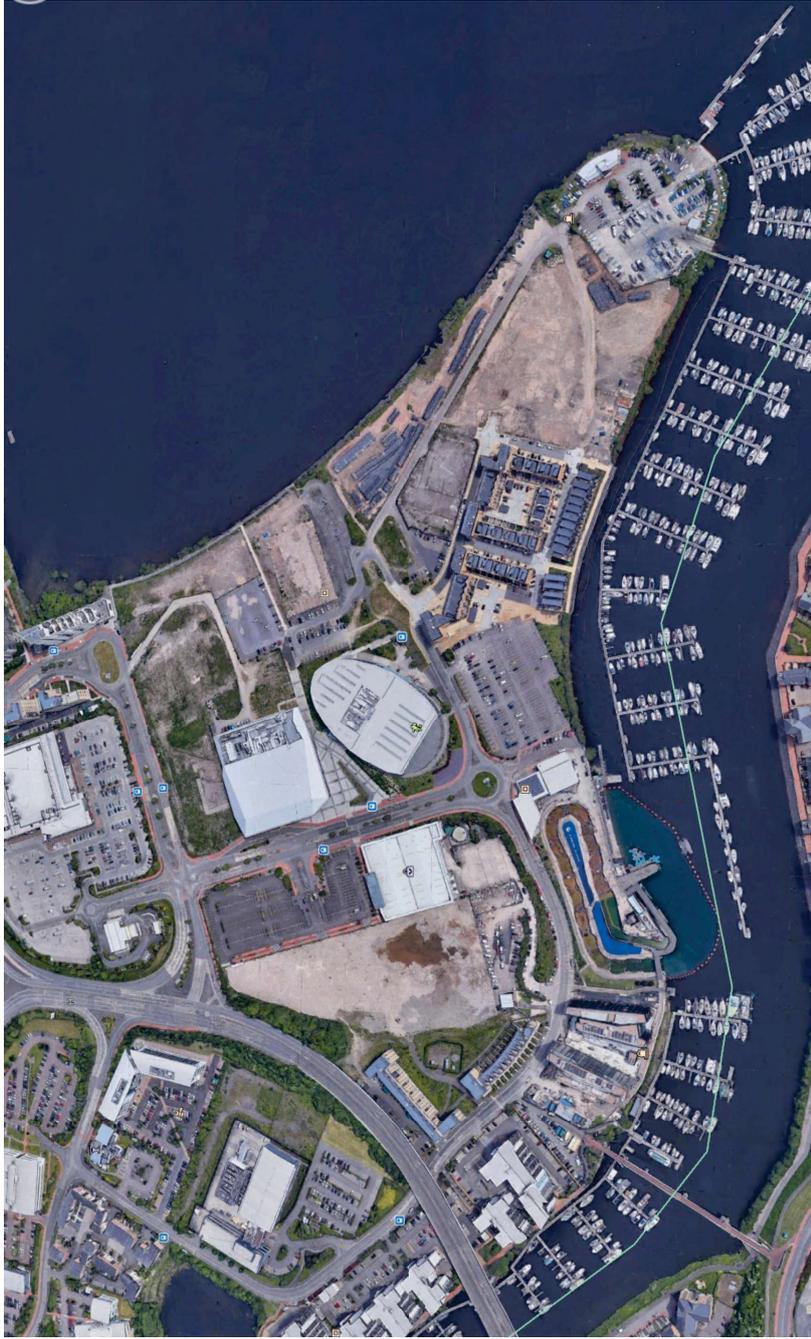
- Building cooling plant and machinery.



Floor Area

Architects2 floor plans indicate the following Gross Internal floor areas

Level	GIA M²	GIA FT²
Ground	5,297	57,017
Ground - Plant & Services	183	1,970
First	2,736	29,450
First - Plant & Services	120	1,291
Total	8,336	89,728



International Sports Village Cardiff Bay

January 2021

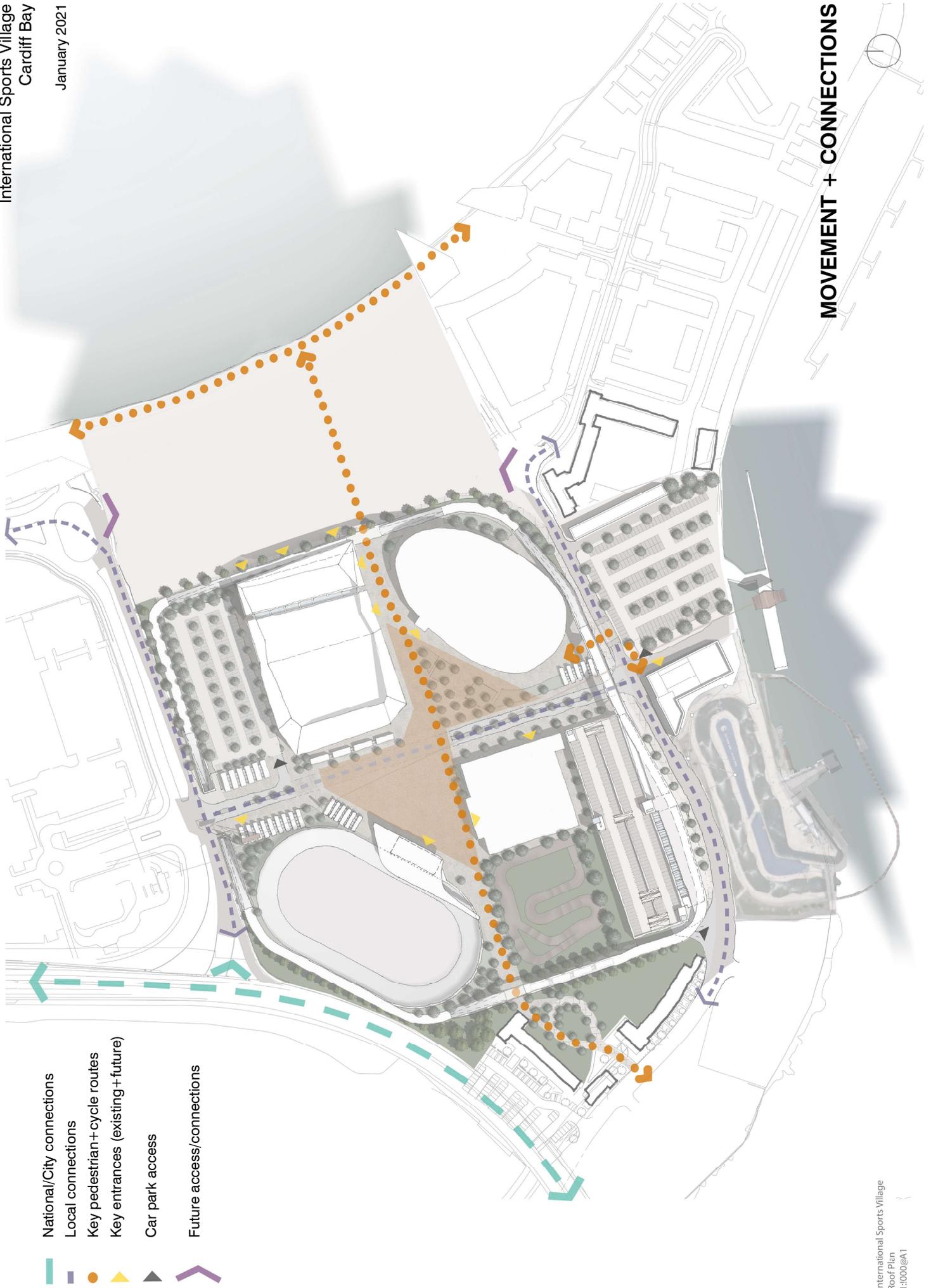


VISION PLAN

- 1 - External velodrome
- 2 - Clubhouse + abccillary
- 3 - Container City
- 4 - New surface car park
- 5 - Existing Ice Area
- 6 - Ice arena extension
- 7 - MX track
- 8 - Retail + leisure facility
- 9 - Existing pool
- 10 - New deck parking
- 11 - Existing WWRC
- 12 - Improved surface parking
- 13 - New residential block
- 14 - Zip wire terminus

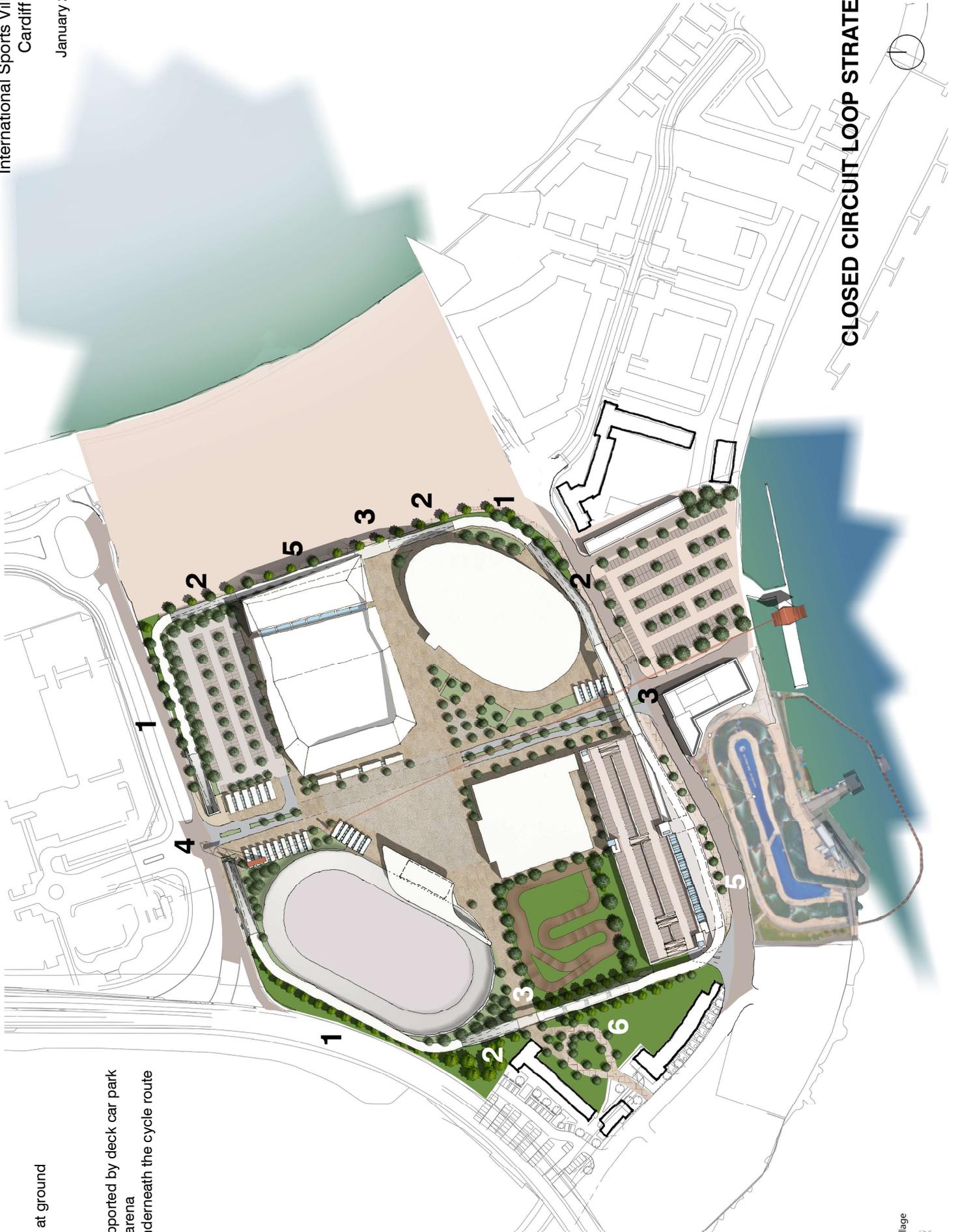


FUNCTIONS



MOVEMENT + CONNECTIONS

-  National/City connections
-  Local connections
-  Key pedestrian+cycle routes
-  Key entrances (existing+future)
-  Car park access
-  Future access/connections



CLOSED CIRCUIT LOOP STRATEGY

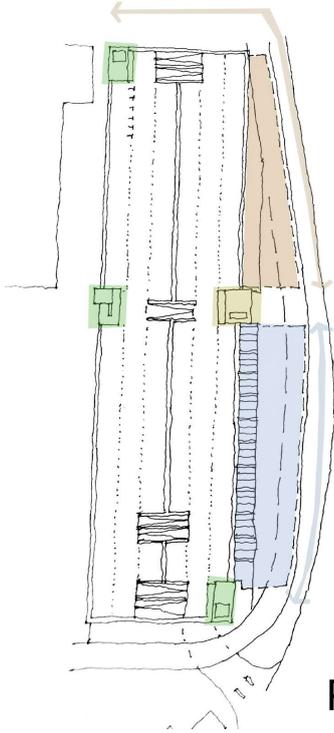
- 1 - closed circuit at ground
- 2 - ramp
- 3 - bridge
- 4 - tunnel
- 5 - elevated - supported by deck car park or extended ice arena
- 6 - containers underneath the cycle route



SKETCH ELEVATIONS + ARCHITECTURAL LANGUAGE/CHARACTER

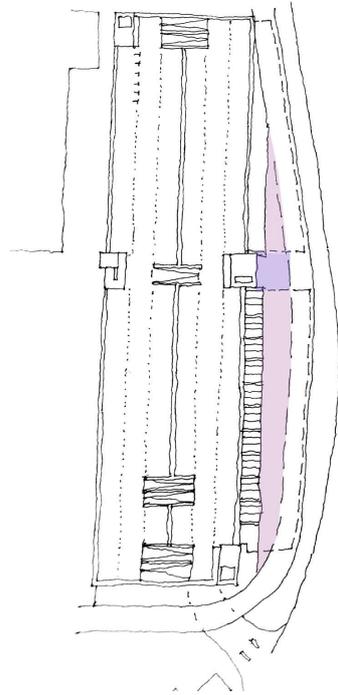


- BLUE - Retail/live function
- BROWN - Cycle hub
- GREEN - Parking cores
- YELLOW - Closed circuit control

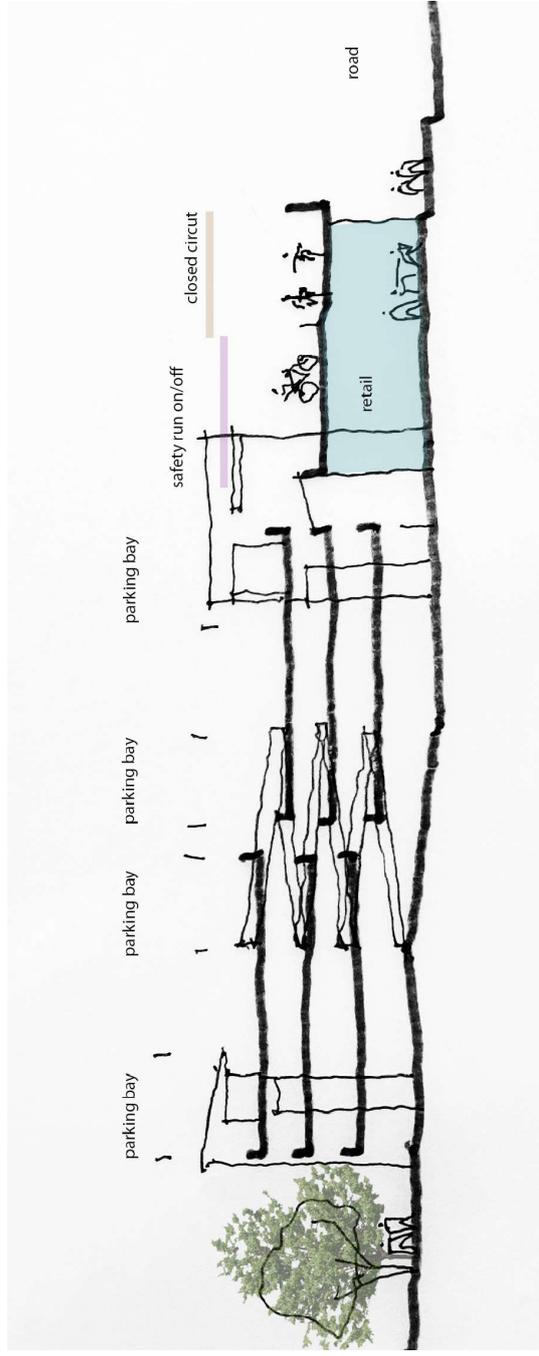


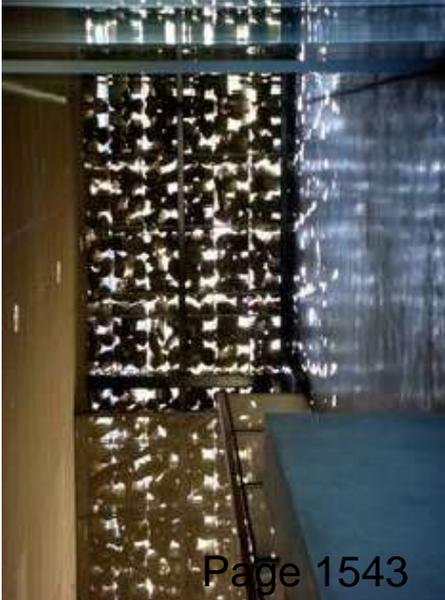
GROUND FLOOR SKETCH PLAN

- PINK - Safety run-off/run-on
- PURPLE - Safe waiting zone

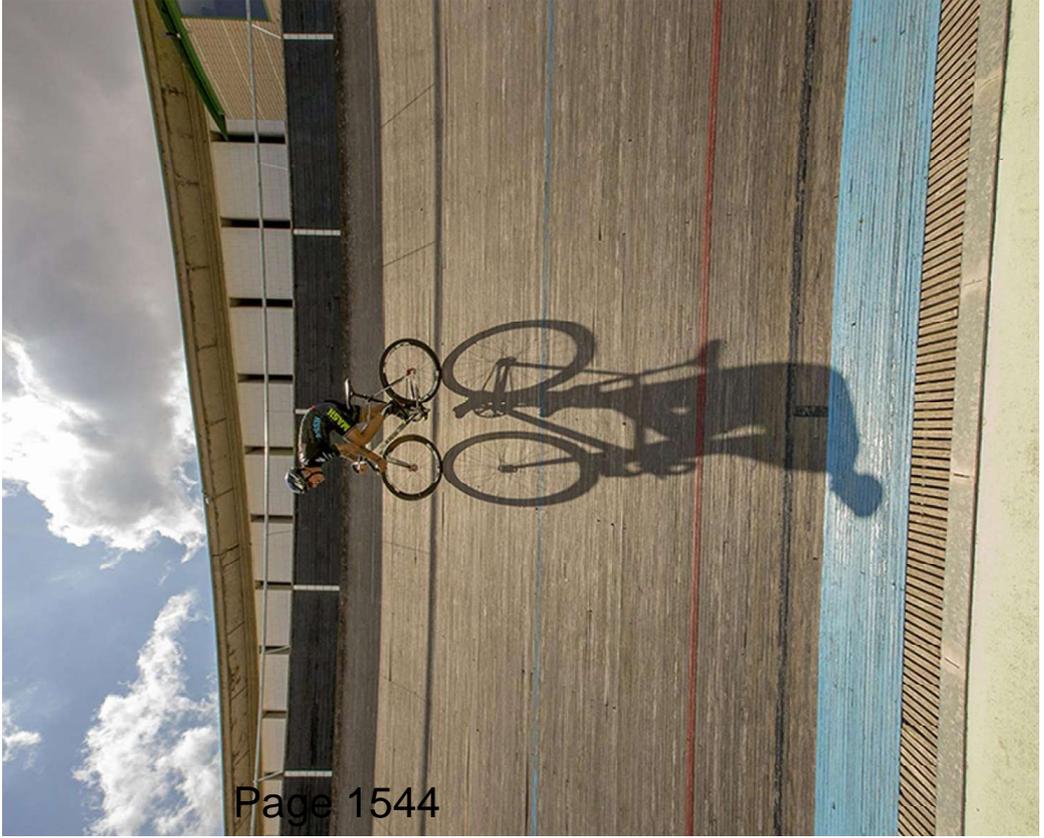


SECOND FLOOR SKETCH PLAN



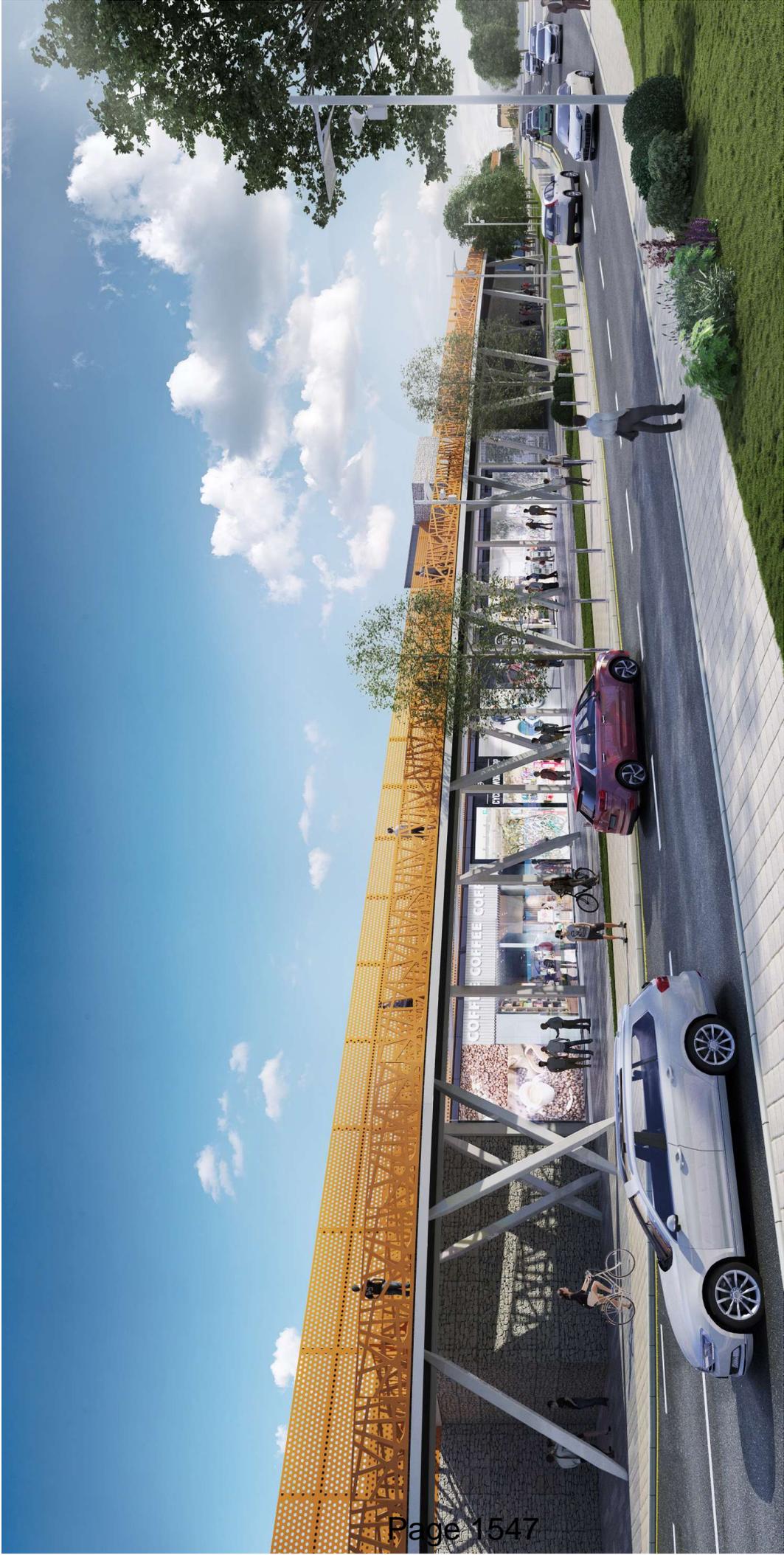


ARCHITECTURAL LANGUAGE/CHARACTER - PRECEDENT











By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14, 16, 21 of Part(s) 4 and 5 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

My Ref: T: Scrutiny/Correspondence/Cllr NH

Date: 14 July 2021

Councillor Russell Goodway
Cabinet Members
Cardiff Council
County Hall
Cardiff
CF10 4UW



County Hall
Cardiff,
CF10 4UW
Tel: (029) 2087 2087

Neuadd y Sir
Caerdydd,
CF10 4UW
Ffôn: (029) 2087 2088

Public Letter

Dear Councillor Goodway,

Velodrome: International Sports Village (ISV)

Thank you for attending the Economy & Culture Scrutiny Committee on 13 July 2021, along with Neil Hanratty, Chris Barnett, Steve Morris and Jo-Anne Phillips to discuss the report to Cabinet regarding the next stages in the Velodrome: ISV project. This letter captures the comments and observations from Members with regard to information in the public domain. I will send a separate, confidential letter to capture our views on exempt issues.

Members highlighted that concerns have been raised that not all current users of the Maindy velodrome will be able to use the new velodrome track at the ISV, due to its design. Members sought to understand whether this is the case. Members are reassured by the answers provided by officers that the track designer has been clearly instructed to ensure that the new track at the ISV velodrome is designed to be suitable for all current users of the Maindy velodrome, whether they are young, old, beginners or experienced cyclists and whether they use road or track bikes. Members note that cycling organisations are recommending 330 metre tracks as the optimal distance, which is why the new track is not as long as the track at the Maindy velodrome.

Members note the report to Cabinet states the need to test the market for a third party operator of the velodrome, given the possible VAT implications for the Council meaning it is unlikely to be financially viable for the Council to operate the velodrome. Members note the response from officers that this market testing would be part of the

broader work to inform the Full Business Case for the overall ISV site and that they are optimistic that they will find an operator. Members note that this is a key risk to the Council; this is an area we intend to explore further when we scrutinise the report to Cabinet on the ISV in September.

During our way forward discussion, Members reflected on the critical role active travel routes – walking and cycling – play in terms of ensuring good access to the ISV site. Members own recent experiences of walking and cycling to the Bayside Vaccination Centre and nearby locations demonstrates the poor condition of existing routes, in terms of surface quality, road crossings and connectivity. These need addressing, they need to be improved and made fit for purpose, to provide good access to the ISV site and the velodrome. In the response to this letter, **Members request** that you provide details of the plans to achieve improvements to active travel routes to the ISV site, including access from Cogan Station, the Ely trail, routes around the Cardiff Bay Retail Park and routes within the ISV site and Cardiff Bay. We are seeking reassurance that active travel is being planned into the overall improvement of the ISV site.

This letter requires a response please, to the following point:

Request

That you provide details of the plans to achieve improvements to active travel routes to the ISV site, including access from Cogan Station, the Ely trail, routes around the Cardiff Bay Retail Park and routes within the ISV site and Cardiff Bay.

Yours sincerely,



**COUNCILLOR NIGEL HOWELLS
CHAIR, ECONOMY & CULTURE SCRUTINY COMMITTEE**

cc Members of the Economy & Culture Scrutiny Committee
Neil Hanratty Chris Barnett Steve Morris Jo-Anne Phillips
Clair James Cabinet Support Office Tim Gordon

**County Councillor Russell Goodway OBE OStJ
Cabinet Member, Investment & Development**

My ref : RVG/cmid/Scrutiny/CM46129 (Public)

Your ref : T: Scrutiny/Correspondence/Cllr NH

19 July 2021

County Councillor Nigel Howells
Chair, Economy & Culture Scrutiny Committee

By email: nhowells@cardiff.gov.uk



Dear Nigel

VELODROME: INTERNATIONAL SPORTS VILLAGE – PUBLIC LETTER

I refer to your letter dated 14 July 2021 in the above connection.

Your Committee will be aware that July Cabinet report specifically deals with authority to undertake a Full Business Case on the Velodrome proposal. This process will involve the submission of a planning application and the issue of active travel connectivity to the facility will be addressed as part of that process.

During the meeting, it was explained that a further report will be tables at Cabinet in September providing an update on the wider International Sports Village project. I will ensure that this report provides an update on active travel connectivity to the site. In due course, detailed proposals will be identified and brought forward through negotiation with the Local Planning Authority as part of the planning application process on the wider site.

Yours sincerely

Russell

**RUSSELL GOODWAY
CABINET MEMBER, INVESTMENT & DEVELOPMENT**

Copy: Neil Hanratty, Director of Economic Development
Angela Holt
Clair James
Alison Taylor, Cabinet Office

T: 07962 251439

Email: r.v.goodway@cardiff.gov.uk

Please reply to:
Cabinet Office, County Hall, Cardiff, CF10 4UW
T: 029 2087 2631

This page is intentionally left blank