

INDOOR ARENA PROCUREMENT: PRE-DECISION SCRUTINY

The report to Cabinet, attached at Appendix A, including Appendices 1-15 inclusive, Appendix B and Appendix C are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972. 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 the scrutiny of the report to Cabinet on the Indoor Arena procurement, which is due to be considered by Cabinet at their meeting on 26 November 2020. The report is attached as **Appendix A** and has fifteen appendices.
2. Members should note that **all Appendices, namely Appendix A and its appendices 1 -15, Appendix B and Appendix C**, 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 26 November 2020, the Cabinet will consider a report that provides an update on the procurement process to secure a private sector partner to deliver and operate a 15,000-capacity Indoor Arena at Atlantic Wharf, Cardiff.
4. During this scrutiny, Members have the opportunity to explore:
 - i. The latest stage in the procurement process;

- ii. The impact of the coronavirus pandemic on the viability of the proposed Indoor Arena;
- iii. Any costs to the Council;
- iv. Whether there are any risks to the Council;
- v. The timeline and next steps for delivering the indoor arena project;
- vi. The recommendations to Cabinet.

Structure of the meeting

- 5. The Chair will move that this item be considered in a closed session, where members of the public will be excluded, where Members can ask questions that pertain to the Appendices.
- 6. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development). Neil Hanratty (Director of Economic Development), Chris Barnett (Operational Manager – Major Projects) and Kyle Godfrey (Portfolio Accountant) will attend to give a detailed presentation setting out the proposals and information received. 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. Since February 2018, officers have been working with the British Airways Pension Fund to develop a delivery plan.

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 *'authority be delegated to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development and the Section 151 Officer to deal with all aspects of the procurement of independent advisors as set out in Confidential Appendix 4'* and to explore the best financial approach to deliver 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 resolved to note the preliminary due diligence set out in the appendices to the report, and resolved the following:
 - i) *authority be delegated to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development, the Section 151 Officer and the Monitoring Officer to enter into the Memorandum of Understanding (MOU) attached at Confidential Appendix 4 relating to the acquisition of the Red Dragon Centre site and to report back to Cabinet before any legal agreements are entered into.*
 - ii) *authority be delegated to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development, the Section 151 Officer and the Monitoring Officer to 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) *authority be delegated to the Section 151 Officer and the Monitoring Officer to 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 the proposed procurement strategy and new financial strategy for the Indoor Arena, which is within the financial envelope approved by Council in February 2019. Cabinet also approved the acquisition of the Red Dragon Centre and delegated authority to the Director Economic Development to acquire other land associated with the Indoor Arena development. The report to Cabinet included details of the Competitive Dialogue- style procurement and that the next stage required bidders to spend significant resource to produce a detailed submission. The acquisition of the Red Dragon Centre would therefore demonstrate to bidders that the Council could deliver full control of the land required.

Report to Cabinet

14. The report to Cabinet is attached at **Confidential Appendix A**. Members are advised to consider the Procurement and Issues section of the report, which provide an overview of the latest position regarding the Indoor Arena and direct Members to the appropriate appendices for more information.

15. Members are also advised to bear in mind the Financial and Legal Implications sections, which also direct Members to the appropriate appendices for more information.

16. **Confidential Appendix B** provides Members with a short guide to the report to Cabinet and directs Members to the key issues.

Previous Scrutiny

17. This Committee undertook policy development scrutiny of the Multi-Purpose Indoor Arena proposals at their meeting on **5 October 2017**. Overall, Members were supportive of proposals for a multi-purpose indoor arena, recognising the benefits that will accrue to the city region from increased footfall and enhanced infrastructure. In the Chair's letter following this meeting, Members highlighted:

- i. It would be sensible to explore a range of funding options;

- ii. The business case for the indoor arena should clearly detail the likely impact the arena will have on other venues in the city region.

18. At their Committee meeting on **13 February 2018**, Members scrutinised the report to Cabinet regarding the preferred location for the multi- purpose indoor arena, namely Atlantic Wharf. In the Chair's letter following this meeting, 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.

19. As well as sending a public letter, 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.

20. At their Committee meeting on **8 November 2018**, Members scrutinised the report to Cabinet regarding the next steps in delivering the indoor arena. In the Chair's letter following this meeting, Members highlighted²:

- i. Their support for the recommendations to Cabinet;
- ii. That Members wish to be kept abreast of proposals for the Motorpoint site;

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

- iii. That costs for design, pre-development work and independent consultants to undertake verification checks are necessary and appropriate;
- iv. Members would like to receive evidence of market testing to demonstrate the indoor arena development is able to hold its own against competitors.

21. As well as sending a public letter, the Chair, Councillor Nigel Howells, 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.

22. 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.

23. 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. Both letters are attached at **Confidential Appendix C** and Members are reminded of the need to keep the contents of these letters confidential.

Way Forward

24. Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development), Chris Barnett (Operational Manager – Major Projects) and Kyle Godfrey (Portfolio Accountant) will attend to give a detailed presentation setting

out the proposals and information received. Members will be able to ask questions to the panel of witnesses.

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

Legal Implications

26. 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

27. 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 26 November 2020; and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

12 November 2020