

**ATLANTIC WHARF REGENERATION SCHEME – UPDATE: PRE-DECISION
SCRUTINY**

Appendices 2, 3 and 4 of the Cabinet Report are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972. 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 draft report to Cabinet regarding the next steps in the Atlantic Wharf regeneration, which is due to be considered by Cabinet at their meeting on 14 July 2022.
2. Members should note that **Appendices 2, 3 and 4** 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.

Scope of Scrutiny

3. At their meeting on 14 July 2022, the Cabinet will consider a report that updates Cabinet on progress with the Indoor Arena development and associated Multi-Storey Car Park (MSCP) and sets out the proposed next steps with these and the overall Atlantic Wharf regeneration.
4. The report seeks approval for the acquisition and appropriation of land parcels relevant to the Atlantic Wharf regeneration, namely:

- i) the acquisition of land to assist the Council to meet its obligations set out in the planning agreement for the new Indoor Arena and the wider Atlantic Wharf regeneration, and
 - ii) The appropriation of land for the delivery of the MSCP.
5. The report to Cabinet also seeks authorisation to undertake a land referencing exercise for the masterplan area, and agreement to the principle of using Compulsory Purchase Orders to facilitate the delivery of the wider Atlantic Wharf regeneration scheme.
6. During this scrutiny, Members can explore:
 - i) The updates on the Indoor Arena, and wider Atlantic Wharf regeneration
 - ii) The proposed changes to the Multi-Storey Car Park
 - iii) The proposed land strategy
 - iv) The proposed changes to the Atlantic Wharf masterplan
 - v) The proposed agreement in principle to use of Compulsory Purchase Orders
 - vi) The financial, legal and property implications for the Council and whether there are any risks to the Council
 - vii) The next steps and timelines involved, and
 - viii) The recommendations to Cabinet.

Structure of the meeting

7. 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, 3 and 4**.
8. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development) and Neil Hanratty (Director of Economic Development). There will be a presentation taking Members through the proposals and recommendations to Cabinet, followed by Members' questions.

9. 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

10. In November 2020, Cabinet approved the Live Nation consortium as the preferred bidder for delivery of the new Indoor Arena, authorised the land strategy, authorised a Pre-Contract Service Agreement (PCSA), and authorised obligations on the Council to support delivery of the Arena, known as Conditions Precedents. The Indoor Arena Full Business Case was approved by Cabinet in September 2021.
11. Also in November 2020, Cabinet gave authority to develop an Outline Business Case (OBC) for the provision of the new MSCP required to consolidate existing surface car parking in Atlantic Wharf, to support delivery of the Indoor Arena and Atlantic Wharf regeneration. In September 2021, Cabinet approved the OBC for the MSCP.
12. In December 2020, Cabinet approved the Atlantic Wharf masterplan, the development of an OBC to redevelop the Red Dragon Centre, and submission of a hybrid planning application.
13. In March 2022, detailed planning consent for the new Indoor Arena and outline consent for the Atlantic Wharf regeneration scheme was granted. The Planning Agreement places obligations on the Council, including delivery of the MSCP. The planning consent requires the Planning Agreement to be signed within 6 months of the date of permission, by August 2022.
14. The draft report to Cabinet entitled '*Atlantic Wharf Regeneration Update*' is attached at **Appendix A** and has 7 appendices:
 - **Appendix 1** – Hybrid Planning Permission Red Line Plan
 - **Confidential Appendix 2** – MSCP Feasibility Report (Capita)
 - **Confidential Appendix 3** – HOTs Future Inn
 - **Confidential Appendix 4** - Surveyors Report

- **Appendix 5** – Atlantic Wharf Red Line Plan
- **Appendix 6** – Appropriation Report (Bevan Britten LLP)
- **Appendix 7** – Site Plan Over-Flow Car Park - Red Line Plan.

Issues identified in the Cabinet Report

Planning Agreement

15. The report to Cabinet sets out that the Planning Agreement places obligations on the Council, the main one being the delivery of a new MSCP. These obligations become effective once the planning permission is implemented.
16. The report to Cabinet sets out that, for planning permission to be implemented, the Council needs to sign the Development Fund Agreement (DFA) – to enable designs to be completed to RIBA Stage 4 - and provide further cost underwrite in certain circumstances. There will be a further report to Cabinet before the DFA is signed, scheduled for Autumn 2022.

Multi- Storey Car Park (MSCP)

17. Details are provided at **Points 10- 12 and 14-19**. The report to Cabinet identifies that the previous proposals for a MSCP were to build it on council-owned land; however, the shape and location of the land, coupled with increased construction costs due to inflation, means the estimated costs of the previous proposals are now above the approved financial envelope for the MSCP.
18. The Council has employed Capita to undertake a feasibility study for provision of a MSCP; this is attached at **Confidential Appendix 2** and sets out four possible options. Option 4 is recommended as it optimises the shape of the MSCP, avoids the need to build over the dock feeder, which would be costly, and enables the use of modern construction techniques, reducing costs. However, this option requires the acquisition of additional land. The freehold interest proposed to be acquired is marked red on the plan attached at **Confidential Appendix 3**.
19. The report to Cabinet stresses that Option 4 is the most affordable and best value for money solution for delivering the MSCP. **Confidential Appendix 4** sets

out the proposed Heads of Terms, based on the independent valuation shown at **Confidential Appendix 5**.

20. The report to Cabinet sets out that work is progressing on the Full Business Case for the MSCP, which will be presented to Cabinet for final approval prior to Financial Close of the Indoor Arena project.

Land Strategy

21. **Points 20-26** set out the proposed land strategy, including a land referencing exercise for the masterplan area, and background to the use of Compulsory Purchase Orders.

22. The land referencing exercise will identify any land where there may be title issues, enabling the Council to review and consider these prior to use of Compulsory Purchase Orders that may be required to clean-up the title.

23. The report to Cabinet is clear that, if it proves necessary to look to use Compulsory Purchase Orders in the future, a further report to Cabinet will be brought that provides details and justification for making the Orders.

24. **Point 26** sets out that the Council also needs to appropriate land, with **Confidential Appendix 6** providing legal advice on this, and **Appendix 7** providing a site plan of the land proposed to be appropriated.

Indoor Arena

25. **Points 27 – 29** provide an update on the Indoor and Atlantic Wharf regeneration scheme, including:

- i) Inflation has led to a significant increase in costs, resulting in the Arena Consortium reviewing their RIBA Stage 3 designs and a consequent delay in signing the Development Fund Agreement, which is now anticipated to be signed before Christmas
- ii) There will be a report to Cabinet in October 2022 setting out a new timeline for the Indoor Arena development, which will include an update on the Council's obligations arising from the Planning Agreement. These obligations include the MSCP, the

redevelopment of the Red Dragon Centre, delivery of the public realm and solutions for green space and drainage, such as a proposed public park scheme on Lloyd George Avenue.

- iii) Due diligence of the detailed design underlines the important relationship between the new Indoor Arena project and other Council projects and decisions, such as decisions on the future of County Hall, and the Heat Network project. The report to Cabinet in October will detail these implications for the new Indoor Arena project.

26. At **point 8**, the report to Cabinet sets out that once final designs are completed and the full and final costs are known, the project will reach 'Financial Close', and the Arena Consortium will be obliged to deliver the new Indoor Arena.

Financial Implications

27. **Points 31 – 37** set out that more detailed financial implications will be provided as detailed proposals are brought forward. They also highlight:

- i) Funding for land acquisition will come from the Council's Arena Affordability Envelope budget
- ii) The additional capital cost of land acquisition and associated enabling will need to be considered as part of the proposed MSCP business case and options appraisal to be presented to a future Cabinet.
- iii) The MSCP business case will need to demonstrate an achievable self-financing approach, delivery within the limitations of Arena Affordability Envelope and that it is the best value for money solution available to the Council in meeting obligations.
- iv) The Council will need to assess the VAT implications arising from this land transaction and proposed development, particularly any potential impact on the Council's partial exemption position. Specialist VAT advice may need to be sought and relevant actions will need to be taken prior to the acquisition being completed and works commencing, including submission of an option to tax form to HMRC.

- v) The Council will need to make a balanced decision regarding the costs and benefits of land appropriation both from a financial and non-financial perspective.

Legal Implications

28. **Points 38 – 49** set out the legal basis for the Council to acquire and appropriate land and to use Compulsory Purchase Orders. They also set out the need for the Council to:

- i) consider value for money, risks, rewards and liabilities, and
- 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.

Property Implications

29. **Point 50** sets out there is no need for additional property implications as these are covered in the body of the report.

Human Resources Implications

30. **Point 51** states there are no HR implications.

Proposed Recommendations to Cabinet

31. The report to Cabinet contains the following recommendations:

- i. 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 acquire the land illustrated etched red in the plan attached at Confidential Appendix 4 in accordance with the terms outlined in Confidential Appendix 4 and in line with the independent valuation set out at Confidential Appendix 5.*
- ii. Authorise the commencement of land referencing investigations to identify any outstanding third-party interests that may need to be acquired to enable the regeneration scheme.*
- iii. Approve the principal of making a Compulsory Purchase order under section 226(1) of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004) and the Acquisition of Land Act*

1981 to seek the acquisition of land and interests within the site area shown edged red on the plan attached at Appendix 5.

- iv. 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 a Multi Storey Car Park to approve the appropriation of the Red Dragon Centre (RDC) over-flow car park land shown edged red on the plan at Appendix 7 for planning purposes as it is no longer required for its current purpose and note that the appropriation of the RDC for planning purposes would enable the finalisation of the Full Business Case for the Multi Storey Car Park development for presentation to Cabinet at a future meeting.*

Previous Scrutiny

32. In December 2020, this Committee undertook pre-decision scrutiny of a report to Cabinet on the Atlantic Wharf masterplan. Following this scrutiny, the Chair, Councillor Howells, wrote a confidential letter to Councillor Russell Goodway, Cabinet Member – Investment and Development, dated 9 December 2020, setting out the Committee’s comments and observations. A copy of the confidential letter has been shared with Committee Members.
33. In July 2021, this Committee undertook pre-decision scrutiny of a report to Cabinet on the Atlantic Wharf scheme. Following this scrutiny, the Chair, Councillor Howells, wrote a public and a confidential letter to Councillor Russell Goodway, Cabinet Member – Investment and Development, dated 14 July 2021, setting out the Committee’s comments and observations. Copies of these letters has been shared with Committee Members.
34. In March 2022, this Committee undertook pre-decision scrutiny of a report to Cabinet on the Cardiff Bay Regeneration proposals, which included Atlantic Wharf. Following this scrutiny, the Chair, Councillor Howells, wrote a public and a confidential letter to Councillor Russell Goodway, Cabinet Member – Investment and Development, dated 10 March 2022, setting out the Committee’s comments and observations. Copy of these letters have been shared with Committee Members.

35. Much of the information considered in the above scrutinies has been confidential and therefore Members comments, observations and recommendations on this information cannot be included here. Regarding the information in the public domain, Members have made the following points:

Atlantic Wharf Regeneration – July 2021¹

- i) Member re-iterate their view, expressed following our scrutiny in December 2020, that designs should reflect the heritage of the area, of the Port of Cardiff, Butetown and Cardiff Docklands, bringing the sea and coast to bear.
- ii) Members request consideration be given to providing social and affordable housing throughout the site, given the high levels of housing need in Cardiff and that these are predicted to increase post-pandemic.
- iii) Members recommend that officers work with the Access Forum to gain a full understanding of access needs, so that these can be considered and addressed from the start of the footbridge design process.
- iv) Members recommend that a further report to Cabinet be brought on the proposed delivery arrangements for the Cultural Production Partnership, to provide transparency and clarity
- v) Members request a copy of the questionnaire posted to local residents and details of the languages this has been provided in, given the high proportion of local residents from Black and Minority Ethnic communities whose first language is not English or Welsh.

Indoor Arena – September 2021²

- vi) Members feel it would be beneficial to use daytime CGIs as well as night-time CGIs in future press releases
- vii) Members were pleased to hear that the design discussions to date have reduced energy usage by 40%, that discussions are ongoing regarding the Arena joining the Cardiff Heat Network and that an Energy Strategy is being developed that focuses on ensuring net carbon zero.

¹ Public Letter to Cllr Goodway, dated 14 July 2021 re Atlantic Wharf

² Public Letter to Cllr Goodway, dated 21 September 2021, re Indoor Arena

Cardiff Bay Regeneration - March 2022

Indoor Arena –

- viii) Members note the increased capacity to 17,000 spectators.
- ix) Members are pleased to hear that there is work to address noise pollution, car parking and loss of green space.
- x) Members are pleased to hear that the Indoor Arena will be one of the greenest in the UK. We note that to achieve carbon neutrality may be beyond reach as a stand-alone building and that work is progressing on an energy strategy for the wider Atlantic Wharf site to assist the Council to meet its One Planet Cardiff pledge of net zero carbon.
- xi) Members thanked officers for ensuring daytime CGIs were available, as previously requested; similarly, Members feel it would be beneficial for CGI images to highlight the greening that will take place in public spaces to offset the hard standing required to enable the area to cope with the volume of spectators.

Atlantic Wharf Regeneration

- xii) Members sought to understand the viability of the various family attractions, given the current cost of living crisis. Members note the Outline Business Case for Atlantic Wharf will contain data on this.
- xiii) Members are delighted to see progress being made to find a good use for the Graving Docks.
- xiv) Members welcomed in principle the proposed improvements for Lloyd George Avenue, that will enhance connectivity, public and active transport, boost biodiversity and promote health and wellbeing. Members are pleased that there will be consultation and engagement with local communities to ensure final proposals reflect their views. Members note that early discussions are being held on the possibility of replacing Herbert Street bridge and improving that general area, to assist connectivity between the city centre and Cardiff Bay.
- xv) Members wish to highlight the need to ensure that free facilities are promoted in Cardiff Bay, for walking, running, cycling, and swimming. Whilst we need the employment and economic benefits that flow from events and adventure tourism, we must ensure that residents and visitors are not 'priced out' of enjoying Cardiff Bay for recreational use.

Way Forward

36. 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 to give a presentation and all witnesses will be available to answer Members' questions on the proposals.

37. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 2, 3 and 4**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

38. 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

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 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 14 July 2022, and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

7 July 2022