

# Birmingham City Council

## Report to Cabinet

17<sup>th</sup> March 2020



**Subject:** **Outline Business Case: Development of Signal Hayes Community and Sports Resource**

**Report of:** Acting Director Neighbourhoods

**Relevant Cabinet Member:** Councillor Tristan Chatfield, Cabinet Member Finance and Resources

**Relevant O & S Chair(s):** Councillor Sir Albert Bore, Resources

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|---|---|--|
| Are specific wards affected?  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No – All wards affected |
| If yes, name(s) of ward(s): Walmley and Minworth                                    |   |  |
| Is this a key decision?   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                      |
| If relevant, add Forward Plan Reference: 007252/2020                                |   |  |
| Is the decision eligible for call-in?   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                      |
| Does the report contain confidential or exempt information?                         | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No           |
| If relevant, provide exempt information paragraph number or reason if confidential: |   |  |

### 1 Executive Summary

- 1.1 To seek approval to the proposal (Appendix 1) to deliver a new sports and community resource in Walmley, Sutton Coldfield as per the redline plan (Appendix 2).
- 1.2 To progress the procurement process to award a contract for the successful bidder to design, build, operation and management of the facility.

## **2 Recommendations**

That Cabinet

- 2.1 Approves the proposal (Appendix 1) to deliver a new community and sports resource in Walmley, Sutton Coldfield.
- 2.2 Approves the draft procurement strategy for the development of a community and sports resource in Walmley, Sutton Coldfield: 'design, build, operation and management' option as set out in Appendix 3 with approval of the final strategy delegated to the Assistant Director Neighbourhoods.
- 2.3 Authorises the release of funding not to exceed £0.100m to commission Corporate Procurement Services, Legal Services and Acivico Limited to progress the proposal to Full Business Case.
- 2.4 Note the Full Business Case and successful contract award will be subject to further Cabinet approval.

## **3 Background**

- 3.1 In 2009 the former Hardy Spicer sports ground off Weaver Avenue, Walmley Sutton Coldfield, owned by Rubery Owen Holdings and Keir Ventures was subject to a planning application for 110 new homes; however, this was refused on the basis the land was earmarked for community use.
- 3.2 The project incurred a further delay when Walmley Residents Association challenged the use of the site under Village Green Status. This was not upheld.
- 3.3 In 2011 planning permission was granted on completion of a Section 106 Agreement which included a number of clauses including provision of a community facility. Originally the facility was to be delivered by the developer Kier Ventures Ltd and offered to the Young Men's' Christian Association (YMCA) to operate. Unfortunately, due to disagreements between the developer and the YMCA the original concept could not be taken forward. The Council's Planning Committee made the decision that in order for the proposal to progress Rubery Owen Holdings and Keir Ventures will transfer the land (Appendix 2) to the City Council and pay a deposit of £3.5m in return for permission to build the 110 homes on vacant land. The deposit has been received and the Council are now working towards progressing the proposal.
- 3.4 A consultation exercise was carried out by United Community and Activity Network (UCAN) with local residents in June 2019 to gauge and measure their expectations and requirements for the use of the land. This also included consultation with local sport and recreational organisations. The survey revealed that 40% of the respondents did not participate in sport due to lack of interest, affordability and access. These factors need to be taken into consideration when taking this proposal forward.

- 3.5 The local community support a combined sport/community facility with 75% of residents showing an interest in promoting health and wellbeing of the local people.
- 3.6 The consultation survey also highlighted local concerns which will be addressed as part of the development. These included anti-social behaviour and noise nuisance, avoiding duplication of other facilities in the area, maintaining a green environment, having sufficient on-site car parking to reduce parking on the neighbouring residential streets and traffic congestion.
- 3.7 The key requirements of the new build and external environment have been identified as landscaped car park, a grass or artificial turf playing pitch, a track/path around the perimeter of the site for walkers/joggers, a safe outside area for small children to play. There is also a desire for the building to include a café, gym, multi purpose studios/community rooms, changing rooms and small sports hall to include a basketball court together with stores, office, toilets to support the operations of the building.
- 3.8 It should be noted that if the committed sum is not spent in its entirety any surplus would be used towards the provision/improvement of leisure or community facilities within the Sutton Newhall Ward (now Walmley and Minworth).
- 3.9 Any changes to the purpose of the spend would require a new Deed of Variation.
- 3.10 Council Officers from Legal Services, Corporate Procurement, Property Services together with Acivico Limited will oversee the procurement exercise and the design and build process to ensure a fit for purpose facility is delivered that meets the needs of the local community.
- 3.11 It is anticipated that a Full Business Case and Contract Award will be presented to Cabinet in March 2021.

#### **4 Options considered and Recommended Proposal**

- 4.1 The Section 106 Agreement is very specific to where and how the funding can be spent. It makes provision for different elements of work; however, this report focuses on the delivery of “a Community Facility with associated playing field” on the former Hardy Spicer Sports Ground.
- 4.2 The Council has reviewed and considered different options for the delivery of the new facility. These being:
- To carry out a procurement process to award a contract for the design, build, operation and management of the facility. This is the favoured option as there is no existing revenue budget to operate and manage the facility in-house.
  - The Council to award a contract to construct the facility and lease to an external organisation to operate and maintain. Market engagement has

indicated that there is a considerable risk to an external organisation operating with this model as they operate with facilities purpose built to their own specification.

- The Council to award a contract to construct the facility and operate in house – this would not be feasible as there is no revenue operating budget attached to this proposed new asset.
- To do nothing – this is not an option as it would put the £3.500m Section 106 funding at risk.

## **5 Consultation**

- 5.1 A wide ranging public consultation process has been carried out supported by the local Ward Councillors, including door to door canvassing, discussions with local interested groups and a resident's opinion survey. The public consultation process will be ongoing to ensure the local community is kept informed of progress through to the delivery of the new facility.
- 5.2 The Cabinet Members for Homes and Neighbourhoods and Health and Social Care together with the local elected members for the Walmley and Minworth Ward have all been consulted on this proposal and support it going forward.

## **6 Risk Management**

- 6.1 A risk register is appended to Appendix 1.

## **7 Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

- 7.1.1 This proposal supports the Birmingham City Council Plan 2018-2022 specifically:
- Outcome 2 Birmingham is an aspirational city to grow up in. It is proposed that the new facility will provide a range of activities to support children both during term time and the school holidays.
- Outcome 3 Birmingham is a fulfilling city to age well in. The proposed new facility will offer support to families and individuals to advise them on healthy life styles providing fitness activities for all ages.
- Outcome 4 Birmingham is a great, clean and green city to live in. The proposed facility will be based on the requirements and needs of the local community, identified through a robust consultation process.
- 7.1.2 It also supports the Property Strategy 2018/19 – 2023/24 by putting forward a solution whereby a third-party contractor will build and operate the new facility.
- 7.1.3 Birmingham Business Charter for Social Responsibility (BBC4SR)
- Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of these contracts. Tenderers will be required to submit an action

plan with their tender that will be evaluated in accordance with the procurement strategy set out in Appendix 3 and the action plan of the successful tenderers will be implemented and monitored during the contract period.

## **7.2 Legal Implications**

- 7.2.1 Under section 19 of the Local Government Act (Miscellaneous Provisions Act) 1976 the Council has the power to provide such recreational facilities as it thinks fit in its area and under Section 111 of the Local Government Act 1972 the Council may do anything which is incidental to the discharge of its functions.

## **7.3 Financial Implications**

- 7.3.1 The estimated total revenue and capital cost of the proposal is unknown at this stage. It is proposed to invite tenders for bids to Design, Build, Operate and Manage the community/sports facility for a minimum of 15 years.
- 7.3.2 The Council's contribution will be limited to funding secured from a Section 106 Agreement totalling £3.500m. The Section 106 Agreement relates to Land at Former Hardy Spice Sports Ground/Land off Squires Croft and land between Signal Hayes Road and Weaver Avenue, Walmley Sutton Coldfield, Birmingham (planning application 2009/04661/PA). The balance of the proposal will need to be funded by the successful bidder.
- 7.3.3 £0.100M funded from the Section 106 Agreement will cover corporate procurement services, legal services and Acivico Limited's costs to progress to Full Business Case.
- 7.3.4 The procurement strategy will ensure that all risk is transferred to the operator, however there is a small risk to the Council if the successful operator withdraws at some stage during the contract period.
- 7.3.5 If the proposal does not progress and there are no further suitable alternatives the Council, would have to repay the £3.5m less any expenditure incurred (i.e. a maximum £0.100m) that came within the scope of the spend purpose in the Section 106 Agreement.
- 7.3.6 The VAT implications are outlined in Appendix 1.

## **7.4 Procurement Implications**

- 7.4.1 The procurement strategy is set out in Appendix 3.

## **7.5 Human Resources Implications**

- 7.5.1 Council officers have been identified to lead on the project management, procurement, finance and legal implications of delivering this proposal. There are no additional HR implication associated with this assignment.

## **7.6 Public Sector Equality Duty**

- 7.6.1 A copy of the Equality Act 2010 – Public Sector Duty statement and the initial equality assessment screening document ref EQUA461 are appended to this report (Appendix 4).

## **8 Background Documents**

- 8.1 Deed of Variation (5<sup>th</sup> May 2016) relating to the S106 Agreement dated 5<sup>th</sup> May 2011 relating to ground at former Hardy Spicer Sports Ground/Land off Squires Croft and Land between Signal Hayes Road and Weaver Avenue, Walmley, Sutton Coldfield.
- 8.2 Signal Hayes: A Community Resource for the future - Residents Opinion Survey Report June 2019

## **9 Appendices**

Appendix 1 Outline Business Case Signal Hayes Community/Sports Resource

Appendix 2 Red line plan

Appendix 3 Procurement Strategy

Appendix 4 EINA