



Agenda Item No: 4 C

Bristol City Council Minutes of Overview and Scrutiny Management Board

Thursday 14 November 2014 at 2.00pm

Members Present:-

Councillor Pearce (Chair), Councillor Goulandris, Councillor Jama, Councillor Jackson (substitute for Councillor Holland), Councillor Hopkins, Councillor Lovell, Councillor Malnick, Councillor Martin, Councillor Mongon.

George Ferguson, Mayor.

Officers in Attendance:- Max Wide, Strategic Director – Business Change, Barra Mac Ruairi, Strategic Director – Place, Stephen Wray, Partnerships Director (Creative Economy), Sanjay Prashar, Service Director – Legal & Democratic Services, Stuart Woods, Arena Project Director, Mike Allen, Finance Business Partner, Alistair Reid, Interim Service Director – Economy.

1. Apologies for Absence

Apologies were received from Councillor Holland.

2. Public Forum.

The Board noted that there were no items of Public Forum.

3. Declarations of Interest.

There was none.

4. Whipping.

There was no whipping.

Before the Green Capital report was considered, there was some discussion regarding process on the Arena report and why it remained exempt when

many of the matters were not of an exempt nature. It was noted that full exemption of the report had been challenged and the Service Director – Legal and Democratic Services had amended the non-disclosure agreement to limit the elements for non-disclosure. A Councillor asked if the exempt minutes could be appropriately amended in order to provide as full an open minute as possible. This was agreed.

5. Green Capital Strategic Grants 2015/16.

The Project Manager (Mayor's Office) made the following points by way of introduction :-

- The timetable was tight as applications had closed on 5 November, the panel assessment from 28 Nov to 4 Dec, a Cabinet decision on 16 December and public announcements of awards on 24 December. All funding agreements would be completed and signed off by 31 March;
- There had been four advice sessions and a frequently asked questions document had been published on the website;
- There had been 183 applications received by the deadline, of which a small number of organisations had submitted multiple bids. There was, however, a large, broad cross section of organisations across the city;
- KPMG would provide in depth technical assessment and scoring of the applications as 'in kind' support, which would be made available to the Panel, along with an independent financial appraisal by officers from the Council's Finance Department.

The following points were raised by the Board :-

- The panel consisted Professor Jim Longhurst, UWE, Dr Anna Farthing, A Director of Harvest Heritage Arts and Media and lecturer at University of Bristol, and Alex MinShull. Nominations came through the Green Capital Board and Chair;
- Professor Longhurst would exclude himself from the seven applications from the UWE and they would be assessed by the other two panel members;
- The hard to reach areas and those communities not previously featured were given special consideration in the process. Geographical spread was a key consideration and projects stating they planned city wide remit would be encouraged to target under represented areas;
- It should not only be low risk projects which were funded and it was hoped there would be applications for higher risk innovative projects;
- The Chair asked whether there was an opportunity for increasing the fund beyond £1.35m as there had been an impressive number of applications and was informed that meetings were planned regarding other possible funding sources for good projects that required modest sums that could be delivered through other means. For example, the redirection of some Big Lottery funds. It was not possible to increase the £1.35m. Strategic grants formed part of the £2m grant fund which

also included a small grant fund (£250k) operated by Quartet and a £250k allocation to Neighbourhood Partnerships;

- A Councillor hoped that the process would bring in new, enthusiastic applicants but noted that it would be difficult for organisations starting from scratch to complete the process in 6 weeks. He asked if the Board could be informed of the number of new and existing organisations and was informed that this would be available in time for the Cabinet report;
- A Councillor suggested that the postcode of applicants could be used to reach out to those communities and was informed that the postcode of the lead organisation and the postcode of the area where they expected to work were used to look at both spheres of influence;

At this point Councillor Goulandris arrived.

- A Councillor asked what information was submitted by the panel and whether the Cabinet had any scope in decision making. He also observed that Cabinet would be more in touch with diversity than a 3 person panel. The Board heard that the Cabinet report provided complete coverage as it included the recommendation of the panel and the scoring for all applications, along with comments from the panel regarding their chosen application. The Cabinet were able to approve or reject the recommendations. If requested a detailed report was available. The Project Manager stated he was happy to look into a flagging system for Cabinet regarding applications which were unusual but weak and with help could be made stronger. However, such an arrangement would mean that the funding could not be fully allocated so that there was some 'wriggle' room;
- A copy of the guidance would be sent to a Councillor who had requested it;
- A Councillor raised an issue within her NP where applicants were told not to pursue an application. The Project Manager could not imagine any circumstances where any organisation could be ruled out and agreed to investigate;
- Another Councillor raised a similar issue with an ecologically sound applicant who felt precluded from the process. The Partnerships Director replied that he was willing to meet up with the individual concerned and explain the process;
- A Councillor felt that the first line of the application form stating that to be eligible the applicant had to be a member of the Green Capital Partnership locked out potential, smaller organisations from the outset. He was informed that this had amounted to six organisations and it was possible to become a member at no cost. Membership assisted with communications throughout the year, the Project Manager agreed to take that matter back to Bristol 2015;
- It was noted that there was an appeal process but this could result in other organisations being moved further down the list and without funding. A Councillor stated that this could mean that successful applicants who had not chosen to appeal could lose their funding. The Project Manager replied that the basis of any appeal was whether the

process had been properly followed and great care was being taken with the assessment process in order to avoid appeals.

RESOLVED – that the Board notes the process for allocating £1.35m of Green Capital Strategic Grant Funding to organisations in Bristol.

Before the Board discussed the arena, members of the Board raised the following governance issues:-

- A Councillor reported that the scrutiny of the arena had been transferred from Place to OSMB but there were huge areas that had not been scrutinised that were not addressed in this report. There was need to look at the total cost and overall position before this Council committed to major expense and he questioned when this would actually take place;
- The Chair remarked that there was a limited number of sessions available for OSMB to scrutinise the arena;
- The Strategic Director – Business Change recognised that the arena and Green Capital were additional burdens on OSMB and although not an absolute commitment, he could see for OSMB having more time to scrutinise. A Councillor replied that it was not just the business case but also the travel planning arrangements that needed scrutiny. It was therefore a gamble to proceed without these debates. The Strategic Director – Place stated that officers were at OSMB to have a full and frank discussion of all aspects of the project but this was currently a position in time and all issues were not complete but the direction of travel could be set out;
- A Councillor, the Chair of Place, stated that his members had expected to have the arena come back to them and there had been no consultation with him or Place members. The scrutiny Place members had already undertaken amounted to a complete waste of time. He added that he would be derelict in his duty if he did represent his Commission and put on record that he was dissatisfied with the situation they were now in;
- A Councillor, the Chair of Business Change had some sympathy with comments made as his Commission had scrutinised some aspects of the arena. However, as there was limited time, felt it was important to deal with those issues outside of this Board;
- A Councillor shared concerns and felt the Council's Service Director – Legal and Democratic Services had not provided the basis for which this reason had been made. The Service Director – Legal and Democratic Services replied that he was he was trying to manage a new regime as effectively as possible. He understood that this might cause issues but there was a wider issue of ensuring that overall scrutiny is conducted effectively with work programme items being scrutinised in one place rather than in a fragmented manner. The Councillor remarked that the arena was being scrutinised in one place when at Place. The Strategic Director – Business Change pointed out

that Resources had also wished to scrutinise the arena and where this occurred, the constitution stated that OSMB should deal with an item;

- The Chair of Place stated that such a change should have happened earlier on in the work programme session and believed that the process was being controlled rather than managed;
- A Councillor remarked that there were areas of concern that had missed out of the papers and this is why the unprecedented joint press release had been released;
- The Chair concluded that the new Scrutiny regime was still bedding in and had not run smoothly. It was important that in the future the early planning of the work programme meeting should determine which scrutiny body scrutinised items. It was agreed that the informal Chairs of Scrutiny meetings should consider this process.

There was a 5 minute comfort break.

On reconvening, a Councillor asked why the Board had been required to sign the non-disclosure agreement prior to seeing the exempt report when Councillors often dealt with exempt reports and were not required to sign such an agreement. He asked whether Councillors would be asked to sign such agreements whenever there was a confidential matter. The Service Director – Legal and Democratic Services replied that there were strong confidentiality issues and there had recently been a breach on another matter. He reminded the Board that this was a very sensitive matter and reminded Councillors of the provisions of the Code of Conduct on confidential matters. Such an arrangement would not happen whenever there were confidential matters but on this occasion the risk to the Council had been too significant. The Councillor wished to know whether the officers present had also been required to sign the agreement and why if not. The Chair proposed that this process be considered at the regular Whips Group meetings.

It was noted that all members of the Board had now signed the non-disclosure agreement and had a copy of the report before them.

7. Bristol Arena.

The Strategic Director – Place gave a presentation on the Arena and made the following comments by way of introduction :-

- The project was in a good position at this moment in time but the position could change over time;
- The project was expected to break even in year 8 and over a 25 year period, £8m was likely to come back to the Council for their investment;
- The project had secured a capable preferred operator and shortlisted five design teams;
- Transactions were underway to purchase the land from the HCA;
- The project would create jobs and help the economy;

- There were transport challenges and challenges in the construction industry in delivering the number of major projects locally;
- There were site constraints with the scale of the development and for the redevelopment of Temple Meads;
- There would be negative environmental impacts with any development;
- In terms of risk, the operator had not yet signed up. Cabinet on 2 December 2014 would appoint the preferred bidder and reserve bidder;
- The site acquisition was not yet complete and there was a state aid issue to clarify;
- It was not a Greenfield site and there were construction risks through the course of delivery;
- The outline business case was for a total cost of £91m;
- The key difference from the original outline business case was car parking income – this had now been removed;
- The financing of the arena had been broken down for contingency and inflation;
- Work was currently underway on the ITT tender procurement and evaluation. The design competition shortlist was down to 5;
- Next week the whole process would be reviewed by Local Partnerships in a Gateway Review and Cabinet papers would be published on 24 November;
- This would be a commercial deal with a 25 year lease with guaranteed rent. The operator would take the operational and commercial risk. The asset would return at the end of the lease and the Council would own the building;
- There would be a £330,000 revenue gap in the 1st year of operation and a surplus of £1.2m in the last year with a likely £8m return over the 25 years;
- A planning application would be submitted in July 2015 and the facility would be opened at the end of 2017.

The following points arose from questions:-

- How had the £570,000 been absorbed in the business case ? The Finance Business Partner replied that the original business case had made an allowance for car parking but the bid from the preferred operator had been better than anticipated and our borrowing rates were lower;
- Why had the price of the land been exempt from the Cabinet report when it was tax payers money paying for government land ? The Strategic Director – Place stated that negotiations with the Housing and Communities Agency (HCA) were not finalised and until this happened, it was not possible to allow this into the public domain. The completion of negotiations would be easier after the Cabinet decision in December. A joint evaluation of the land had been commissioned and a sum was sought. The price per acre had been agreed. The sum required for the arena would be drawn down and that would be paid for in 2017. It was important that the price per

acre was not public as the business case aimed to increase the land value in order to increase the value of the project. The Mayor added that this was amazing value for the site and it would have been a mistake to rely on commercial income from car parking;

- Would the government exempt capital receipts from the land value purchase price ? The Strategic Director – Place replied that this would not happen as the government wished to maximise its assets to support the deficit due to the recession. It was noted that although it was preferred not to allow this figure in the public domain, the government would have this information and in time this would become available so why was it so important not to reveal it now. The Strategic Director – Place responded that the government might choose to reveal and this was for them but this Council had tried to act with integrity and when the money was spent the returns came back to us;
- Was the preferred bidder financially sound and was there a money back guarantee as they would be required to provide a capital sum towards the project ? The Board was informed that this was a binding offer and the Council had ensured they were financially viable;
- Had consideration been given to philanthropic contributions that allowed naming rights ? In return for paying the Council yearly, the operator had a right to select naming rights partners. The contract would be restrictive as it could veto partners which were linked with tobacco or payday loans. There was a profit share on naming rights and other areas of income when it exceeded a certain figure;
- It was good news that the operator income was more than expected but could you give some assurance that there was no risk as the bid was far beyond the original estimate ? The Finance Business Partner replied that the operator had offered a capital sum as part of the bid which had been added to the rent and that would bring about a slight gain as the rent was indexed. There had also been a reduction in borrowing rates. Advisors had provided us with an estimate of turnover and the rental sat within what was expected;
- Who had contributed to the evaluation criteria. There had been no Councillor input into it and no assessment had been made of the legacy and economic impact other than financial and commercial aspects ? The Project Director stated that a workshop on the evaluation criteria had taken place with consultants and the base criteria from the Leeds & Copenhagen arenas had been used. An agreed list of priorities for the need for financial viability had been agreed. There were three approved statements which included the city's relationship to the operator and its work with the community which would become its legacy. The operator already ran arenas and had a good reputation and a history of good working relationships with local authorities. Councillor Mongon asked to see the partnership statements and it was noted that the statements had been considered as part of the tender evaluation. When the Cabinet report was published, the operator's identity would be in the

public domain and they would then work with the Council in stakeholder engagement;

- Where were the guarantees for a brand new company and what is the capitalisation if the company went out of business ? The business arrangement would be a Special Purpose Vehicle (SPV) with two partners with both partners jointly and severally responsible;
- What was the legal entity of the SPV ? Officers did not have all the information to hand at the meeting regarding the structure of the SPV but would provide the Board with this outside of the meeting. A Councillor found it staggering that the Cabinet had not yet checked these matters which should have been sorted before now. Another Councillor was most concerned that a new SPV was without parental guarantees. He was informed that this had been requested of operators when the status of the SPV was evaluated at Pre-Qualification Questionnaire (PQQ) stage, and the appropriate level of due diligence had been carried out at that stage of the project. The Chair also asked for information on break points within the contract.
- How was the arena going to provide employment for one of the poorest communities in Bristol ? The ward Councillor for one of the affected wards stated that the report before her gave no indication of this and she expressed frustration that real inclusion always seemed to be an 'add-on' but needed to be started immediately and not after the partner was chosen. The Interim Service Director – Economy replied that briefings on the Enterprise Zone and with reference to the arena had taken place at Neighbourhood Partnerships. Further discussions would take place in 2015 and a design competition would be open for comments from the public so that it reflected Bristol and the local people. The contractor and operator of the arena would provide local employment and a training strategy would provide economic benefits. There could also be diversity clauses in the contract so there were a range of things that were key to the success of delivering the project. The Councillor replied that she had not missed a Neighbourhood Partnership and this matter had not come up. She was unconvinced regarding the proposed actions and believed that instead, once built, better educated people would come in and get the best jobs and the youth of Lawrence Hill would end up in low-paid work. She asked to be provided with details of the body providing training and when young people could expect to benefit from it. The Interim Service Director – Economy emphasised that there was every intention to deliver on this and it would be written into contracts as part of negotiations;
- Was there CIL and if so, to what value and was it part of the £91m cost ? The Strategic Director – Place stated that there was but he was unable to provide the figure at this time. A Councillor expressed surprise that this was not possible as it was a formula based on the size of the building. The Board noted that the

evaluation had only recently closed and there had been a great deal to do to meet all challenges and therefore it was not feasible to have all the detail at this meeting;

- What plans were there to accommodate all the visitors who would come by car ? The Strategic Director – Place replied that neither the Liverpool or Leeds arena were next to a railway station and therefore this arena was in a better position next to the station with Metrobus lines, bus lines and cycling routes all close by. Car transport would be dealt with as part of the travel plan with the operator and constructor. A Councillor stated that a travel plan was required before that time. Now that new build car parking had been removed from the project, a Plan B should be in place. In reality people would travel from other parts of the country to attend an event at the arena by car and not the train and if the original 1000 car spaces had been removed, people would park on-street in Totterdown;
- The Chair asked for clarification – had car parking income been discounted alone or had the provision of car parking also been discounted ? The Interim Service Director – Economy replied that the better bid meant that car parking income was not required but it was necessary to give consideration to other factors such as the site being in the city centre and to be positive regarding sustainable travel and modal choice. Transport officers would undertake an assessment which would be required for the planning application. It was too early to say whether a car park would be required as it was intertwined with the development of Temple meads. Network Rail had car parking requirements and consideration would be given to whether there was a joint solution with them, ie. a shared car park if the timings worked. Consideration was also being given to other sites as part of the final planning application, as well as the Park & Rides at Brislington and Long Ashton and the use of Cabot Circus at night which was under-utilised. He added that a commercial base was needed for a car park and cited Glos. Cricket Club as an example of a large development where parking had not been provided;
- It was noted that the £1.2m CIL was not included in the £91m but was on top of. A Councillor expressed concern that this would be an additional cost up front. The Project Director replied that the CIL officer was working on a way of profiling this sum so that this would not be an additional cost to the project;
- Why were other unfinished buildings such as the Colston Hall being sacrificed for an arena. Should it not be a matter of simple affordability ? The Mayor replied that there was a £20m shortfall on the Colston Hall but recognised that there was a synergy with the arena and the Colston Hall but it was simply not possible to deliver both simultaneously;
- A Councillor referred to the City Deal stating that he was unable to see the projection if there was sufficient funds to cover borrowing. Had the deal been signed ? The Mayor reported that the original

deal had not been signed as it was to the city council's disadvantage but after holding out, an equitable deal had been reached and all parties were happy to sign.

At this point, Councillor Goulandris left.

- A Councillor asked what risk to the taxpayer there was in the £91m cost ? The Mayor replied that the project was as certain as every project but there was a risk as costs might increase. The project had been well managed to date and he was impressed that it had progressed so quickly as this could have taken several years. There was never certainty until the end of a project;
- Where in the report was the risk assessment of the rise of interest rates when using public funds ? The Finance Business Partner replied that interest costs would be minimised by using council funds rather than borrowing money. Fixed rates were low and would remain low and borrowing would be done appropriately to minimise costs. One loan would match the length of the contract and the other would match the City Deal. In summary, fixed rate loans would not make a huge difference if they go up a little year on year. There was a 10% building contingency in the overall cost;
- As the meeting had run out of time a Councillor stated that he would submit further questions to officers and asked for responses back in writing.

8. Date of next Meeting.

Thursday 26 February 2015.

END: 4.40 PM

(Chair)