

North Tyneside Council

Report to Cabinet

Date: 10 June 2013

ITEM 7(c)

Title: Jupiter PaRC @
Swans Procurement of a
Quay Operator

Portfolio(s): Elected Mayor
Economic Development

Cabinet Member(s): Norma Redfearn
Councillor F Lott

Report from Directorate: Chief Executive's Office

Report Author: Graham Haywood,
Chief Executive

Tel: 643 2001

Wards affected: Wallsend

PART 1

1.1 Purpose:

The purpose of this report is to seek Cabinet approval to commence a European Union compliant procurement process to appoint a quay operator to deliver services at Jupiter PaRC @ Swans. In accordance with Contract Standing Order 8(4), a report is required to request approval from Cabinet to proceed with any procurement exercise where the estimated total contract value is in excess of £500,000.

1.2 Recommendations:

It is recommended that Cabinet:

- 1) Authorise the Head of Business and Economic Development, in consultation with the Strategic Director of Finance and Resources, the Head of Law and Governance and the Elected Mayor, to commence a European procurement exercise to appoint a quay operator for Jupiter PaRC @ Swans. The agreement will be for a term of at least five years and the appointment will be made to the provider who submits the most economically advantageous tender in accordance with the evaluation criteria;
- 2) Authorise the Head of Business and Economic Development to agree the specification for the procurement and the evaluation criteria; and
- 3) Authorise the Client Manager Property to deal with any land issues arising from the above recommendation.

1.3 Forward Plan:

Twenty eight days' notice of this report has been given and it first appeared on the forward plan that was published on 17 April 2013.

1.4 Council Plan and Policy Framework

This report is relevant to the Council Strategic Plan 2012-15 – Priority 5 “Work in Partnership to realise the full potential of the North Bank of the Tyne Regeneration, in particular Priority 5 (8);“The Council will begin the journey towards this vision by providing appropriate infrastructure and supporting investment in buildings. The Council will actively seek endowments and collaborations between universities and companies in an innovative partnership. We will take this vision and our determination to Government and to our European representatives to seek their support.”

1.5 Information

- 1.5.1 As part of the on-going process to bring forward the redevelopment of the former Swan Hunter site (now Jupiter PaRC @ Swans) for new manufacturing uses, the Authority has secured £13.8m of public sector grant from the ERDF, the Homes and Communities Agency (HCA) and the Local Enterprise Partnership Growing Places Fund (GPF) for new site infrastructure. The site infrastructure works include improvements to the quay walls, the strengthening of the adjacent load in/load out and storage areas and the dredging the river to ensure the riverside quay meets the needs of existing and new businesses. These particular works which are estimated to cost £7.95m, funded by external grant of which £3.98m is ERDF grant and the remaining £3.97m is from the Homes and Communities Agency and Growing Places Fund. Recent enquiries from potential new manufacturing businesses highlight that deepwater berthing, on-site craneage and other quay facilities would be essential to secure their interest in the site.
- 1.5.2 The riverside quay will be an essential facility for new tenants on the wider Jupiter PaRC @ Swans site. The Authority is seeking to appoint a quay operator with the necessary skills and capacity to manage the increased use of the quay arising from the improved facilities, which is seen to be fundamental to the success of the site and the creation of new business and job opportunities.
- 1.5.3 In August 2012 the Authority commenced a procurement process to appoint a Developer Partner to build advanced manufacturing units on Jupiter PaRC @ Swans and also provide new utility infrastructure on behalf of the Authority as part of the ERDF grant funded works. The Developer Partner had to be appointed through a European procurement process in accordance with the Public Contracts Regulations 2006, in order to comply with State Aid regulations and minimise the risk to the Authority of any clawback of ERDF grant. This process was completed when the preferred bidder for Developer Partner was confirmed by Cabinet on 18th March 2013.
- 1.5.4 In November 2012, during the procurement process for the Developer Partner, new guidance was produced by the European Committee of the Coordination of Funds (COCOF) which made it very clear that any European grant for infrastructure, which resulted in the provision of a facility that would generate an income, such as a toll road or quay, would have State Aid implications. This was the case even if the applicant was a Public Sector body and the facility would therefore need to be marketed to bring in an operator to comply with the State Aid regulations. After seeking external legal advice to confirm the implications of the new guidance, the operation of the quay was removed from the Developer Partner procurement process and the bidders involved at that stage were advised a separate procurement exercise would be undertaken in due course to select a Quay Operator.

1.5.5 Cabinet authority is required to commence this procurement process for the appointment of a Quay Operator. A further report will be brought to Cabinet to detail the results of the procurement exercise, and if the procurement has led to a recommendation to appoint a Preferred Bidder, it will ask for authorisation to appoint.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet approve the recommendations as set out in paragraph 1.2 of this report to authorise the commencement of the European procurement process.

Option 2

Cabinet may decide not to approve the recommendation to commence the procurement process.

1.7 Reasons for recommended option:

Option 1 is the recommended option as this will lead to an early appointment of a quay operator, which is an integral part of the redevelopment of Jupiter PaRC @ Swans. The success of the Enterprise Zone at Jupiter PaRC @ Swans is reliant on the provision of quayside services that will draw businesses to the site. This procurement route ensures the Authority complies with EU directives, State Aid requirements and will minimise the risk of clawback of grant funding from the Authority.

If Option 2 were chosen, then the Authority would need to commence dialogue with the Department for Communities and Local Government, as the ERDF funding agreement includes the works to the Quay. This will most likely lead to a reduction or loss of grant funding, and may cause a significant delay to the project while the matter is being resolved.

The appointment of a quay operator is integral to the redevelopment of Jupiter PaRC @ Swans and the successful marketing of this strategic riverside Enterprise Zone site.

1.8 Appendices:

None

1.9 Contact officers:

Francis Lowes, Senior Manager, Regeneration, tel. (0191) 643 6421

Kate Lovelock, Project Manager, Regeneration, tel. (0191) 643 6426

Vicki Dixon, Senior Manager, Commercial Finance and Major Projects,
tel (0191) 643 5723

David Anderson, Principal Accountant, Commercial Finance and Major Projects,
tel (0191) 643 5722

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- a. North Bank Strategic Development Framework Plan: North Tyneside Council Cabinet report September 2009
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=508773
- b. River Tyne North Bank Regeneration: North Tyneside Council Cabinet report 12 July 2010
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=516230
- c. River Tyne North Bank Regeneration, Learning Village Options: North Tyneside Council Cabinet report February 2011 (pink paper report)
- d. River Tyne North Bank: Local Development Order Arrangements and Learning Village Phase 2: North Tyneside Council Cabinet report December 2011
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=531094
- e. River Tyne North Bank – Learning Village: North Tyneside Council Cabinet report September 2012
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=537624
- f. River Tyne North Bank Update: North Tyneside Council Cabinet report November 2012
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=539615

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no direct financial implications arising from commencing the quay operator procurement process as this will be resourced by internal staff.

Should the procurement be successful, then the recommendation to appoint a Preferred Bidder, and ultimately entry into a commercial contract will have ongoing financial implications. The income from berthing fees, which currently accrues to the Authority will instead pass to the Quay Operator. It is probable that the operator will also provide ancillary services, such as craneage and staff to assist in loading and unloading, which will also be a source of income. The appointment will also remove the costs to the Authority of managing the quay. The final offer will not be known until the procurement process is complete, hence a further report will be brought to Cabinet and / or Council as appropriate, outlining the full financial implications over the life of the contract for approval before the contract is entered into.

Should the procurement not progress, then it is possible that the £3.98m external grant funding secured to support the infrastructure works could be at risk. Detailed discussions would need to be entered into with the awarding bodies to agree any alternative proposals.

The ERDF grant and matching capital grant funding from the HCA and GPF is included in the approved 2013 – 2023 Capital Plan.

2.2 Legal

As the value of the contract as a whole exceeds the threshold of £500,000, this procurement requires Cabinet approval. Any procurement process will be undertaken in accordance with the Council's Contract Standing Orders and EU and UK public procurement requirements. An award will be based on the most economically advantageous tender and the successful tenderer will be appointed on terms and conditions approved by the Head of Law and Governance.

If the recommendations at paragraph 1.2 are not approved this may result in a clawback of ERDF funding, an alternative source of funding would be required for the works to be carried out to the Jupiter PaRC @ Swans site

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The regeneration of the Jupiter PaRC @ Swans site has been the subject of extensive internal consultation as part of the preparation of the River Tyne North Bank Strategic Development Framework. Officers from Regeneration, Economy and Employment, Financial Strategy and Planning, Law and Governance, Strategic Property and Planning have been involved extensively in developing the projects. Briefings have been provided to Elected Members, including meetings of the Economic Prosperity and Housing Sub-Committee.

2.3.2 External Consultation/Engagement

Extensive engagement has taken place with businesses, partners and the community regarding the future development of the Jupiter PaRC @ Swans site on an individual basis as well as strategic groups such as the Riverside Business Forum. The Masterplan for the site has been displayed at a number of recent public events including Area Forum meetings and drop in events. An open day was held in June 2012 to advise of the forthcoming procurement exercise for a Developer Partner and to help refine the brief that was issued. Most recently a boat trip was organised in September 2012 for members of the North Tyneside Business Forum to provide a unique view of the River Tyne North Bank area, with presentations by land owners including the Authority.

2.4 Human rights

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

Equality and Diversity issues have been fully considered and addressed as part of the ERDF application process to date. These issues will continue to be considered throughout the detailed design process. It is considered that the development will have a significant positive effect upon equality of access and opportunity to new jobs for residents of local communities.

2.6 Risk management

Any relevant risks associated with the procurement process would be assessed to ensure there were no adverse implications for the Authority.

2.7 Crime and disorder

The continued development of the Jupiter PaRC @ Swans site will have significant positive implications for crime and disorder as the size of the site means that there are currently opportunities for casual crime despite the provision of 24 hour site security.

The early re-use and development of the site and buildings will reduce the opportunities for crime by introducing a significant level of natural surveillance as well as new security systems, including CCTV.

2.8 Environment and sustainability

The environment and sustainability are at the heart of bringing back into productive use the existing buildings by making best use of the investment and embodied energy.

The site is located close to Wallsend Metro Station and Bus Interchange, making it highly accessible by public transport and is immediately alongside a major east-west cycleway, providing for healthy and low carbon alternative transport. The site is also close enough to our local riverside communities for a substantial number of employees to walk into work. Businesses requiring riverside access for the transport of products will be prioritised, reducing the number of vehicles using the adjacent roads.

The proposed re-use of the site and buildings is targeted at industries that will contribute towards long term environmental sustainability for the UK by providing support for the emerging renewable energy sector, particularly offshore wind power. Site infrastructure works will be undertaken with recycling of materials within the site boundary as a priority and new materials will be selected from sustainable sources. Any refurbishment of existing buildings and the construction of new buildings will be undertaken to the required BREEAM standards. The Quay Operator will comply with all International Port Security requirements to maintain a safe working environment and work closely with the Environment Agency to ensure compliance with appropriate legislation and licensing.

PART 3 - SIGN OFF

- Chief Executive X
- Strategic Director(s) X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Strategic Manager, Policy, Partnerships, Performance and Communications X