

Report of the Director of Adults, Children and Education, and the Director of Communities and Neighbourhoods

The Barbican Auditorium

Summary

1. This report updates members on progress with the formal procurement competition designed to bring the Barbican Auditorium (the Barbican) back into public use. Following a thorough and detailed assessment of the final tenders the preferred bidder has been identified as SMG Europe (Holdings) Limited (SMG). Members are asked to delegate authority to the Director of Adults, Children and Education to conclude with them, in consultation with the Head of Legal Services, the necessary legal agreements for the lease of the Barbican.
2. This report has annexed to it confidential information, which should be maintained as confidential until the procurement procedure is concluded. Some of the information contained in the annexes will cease to be confidential in due course and will be made available more widely by the Council in accordance with its policy on making information available to the public.

Background

3. The Executive, at its meeting on 28 April 2009, agreed that the Barbican should provide:
 - Major conference and/or entertainment facilities for the city.
 - High quality facilities for the residents of York and for visitors, acting as a focus for important city events and a focus for civic pride.
 - Opportunities for community involvement and activities.
 - An operation that does not require long-term revenue subsidy from the Council.
4. The Executive agreed to undertake a formal market testing exercise, using a “competitive dialogue procedure” in line with European Union procurement regulations, to seek an operator who could deliver these objectives.

5. The award criteria to be used in the assessment of bids were agreed as follows:

CRITERIA	MARKS		
<p>Financial</p> <p>An evaluation of the financial impact of the bidder's proposals on the Council with particular reference to:</p> <ul style="list-style-type: none"> • The premium and/or rent payable to the Council for the grant of the Lease; • The extent of investment in the Auditorium proposed by the bidder; • Any other financial benefits identified for the Council <p>Any requirement on the bidder's part for subsidy or contribution from the Council would be set against the above benefits.</p>	40		
<p>Quality</p> <p>Quality is split into two sub-criteria:</p>	<table style="margin-left: auto; margin-right: auto;"> <tr> <td style="border-bottom: 1px solid black;">60</td> </tr> <tr> <td style="text-align: right;">100</td> </tr> </table>	60	100
60			
100			
<p>Civic pride:</p> <p>An evaluation of the extent to which the bidder's proposals will provide the City with prestige facilities which will:</p> <ul style="list-style-type: none"> • Enable the bidder to provide the events/conference programme proposed; • Further the City's economic development priorities; • Further the City's sustainable community strategy; • Enable the City to host important city events and generally be a focus for civic pride; • Fit in with the planning statement for the Barbican site; • Otherwise bring economic and social benefits to the City 	35		
<p>A major conference and/or entertainment programme for the City:</p> <p>Bids will score best on this criterion that meet the Council's aspiration for an extensive and wide ranging programme of music, comedy, dance and entertainment of a quality likely to draw a sub-regional and regional audience and which provide opportunities for community activities and involvement. Marks will also be awarded for bids that involve the provision of a programme of quality conference events and an ancillary programme of entertainment events. The minimum standard will be a programme that contains at least some elements of entertainment. Proposals for entertainment of a primarily adult nature or for gambling will not be scored.</p>	25		

6. Particular activities were not specified in order to allow creative ideas and opportunities to be generated through open dialogue with bidders.
7. The Council advertised, in national publications, the opportunity to lease and operate the Barbican with or without acquiring the Kent Street coach park site. If none of the bidders was interested in Kent Street then it would be available for future separate disposal.
8. Members also agreed the following immediate actions:
 - a) £90k of essential works to be carried out, as a first stage of the total work required to re-open the building, in order to protect the integrity of the asset and prevent further deterioration. These have been completed.
 - b) Officers to support the community users who previously used the Barbican: the York Carol Concert and the Festival of Remembrance, in seeking alternative arrangements. Support was provided for the 2009 season and Budget Council allocated £2k in order to continue support in 2010.

Progress with the procurement

9. The key elements undertaken to date are:
 - A Barbican open day was held in January for all potentially interested parties.
 - The pre-qualification stage closed in February. This assessed the track record and experience of bidders. Questionnaires were received from 6 organisations. Of these, 4 were deemed to be of appropriate economic and financial standing, as well as possessing the necessary technical and professional ability, and were selected to be invited to participate in dialogue.
 - Bidder dialogues days were held with the 4 shortlisted parties during March in order to identify and define solutions to meet the Council's requirements through discussion, giving equal opportunity to each of the bidders. All participants worked in a very positive and professional manner with the Council; however, two of the bidders subsequently withdrew because they did not feel that they would be in a position to meet the Council's requirements.
 - Outline solutions were received from the remaining two parties in April. Both were invited to submit detailed solutions.
 - Further dialogues days were held during May and June in order to guide the bidders in developing their bids.
 - Detailed solutions were received from the two remaining parties in June and formal tenders on 2 August.
 - Participants have been informed of the outcome of the competition and that the Council will now decide whether to award a contract.

10. The key elements still to be undertaken, if the Executive decides to proceed as advised in this report, are:
 - The bidders will be informed of the first date upon which the Council could, if it is so minded, enter into a contract with the winning bidder (procurement rules require what in practice amounts to a standstill period of 14 days before the award of a contract).
 - A notice of award will be placed in the OJEU.
11. The two tenders received can be summarised as follows:
 - A. A bid from a property developer with a proposal for a comprehensive redevelopment of the area including the adjoining hotel, housing sites and the Kent Street site. The Barbican would be refurbished or redeveloped to provide an entertainment and events programme in conjunction with a nominated operator, and the conference facilities would be managed by the hotel operator. The bid is conditional upon being able to purchase the hotel and housing sites from two third parties, obtain planning permission, and secure purchasers / operators for the proposed development. The bid includes the Kent Street site.
 - B. A bid from an entertainments operator to refurbish and lease the Barbican and provide a programme of entertainments and conferencing. The bid does not include Kent Street site.
12. The tenders were evaluated by the project steering group against the award criteria set out in paragraph 5 above. The marks are shown in the confidential Annex 2. The “Most Economically Advantageous Tender” has been identified as that of Bidder B – SMG, who are therefore the preferred bidder. The comparative advantages of the Most Economically Advantageous Tender are set out in the confidential Annex 2 attached to this report.
13. Key reasons for the success of the SMG tender include:
 - Financial savings due to early reopening.
 - Income potential.
 - A comprehensive programme of refurbishment.
 - An innovative programme of audience development backed up by use of a distinctive learning and participation programme.
 - A credible and innovative entertainment programme integrating with community, conference and council use.
 - 4 free concessionary days for the Council to host city events and a proposal for reduced tariffs for community groups.
 - Economic benefits from increased visitor numbers to the city.
 - Early and continuing employment opportunities.

The Preferred Bidder

14. Non confidential information regarding SMG and their proposals is set out in Annex 1. Further relevant information is set out in confidential Annex 2.

The Development Agreement and Lease

15. The main terms for the development agreement and lease that form part of the Most Economically Advantageous Tender bid are set out in confidential Annex 3.

Options

16. The options that the Executive has are:
 - To proceed with the procurement competition with the Most Economically Advantageous Tender as the preferred bidder, or
 - To abandon the procurement exercise and instruct officers to develop an alternative strategy for the future of the Barbican site.

Analysis

17. The bid from the proposed preferred bidder is consistent with the Executive's intentions for the Barbican and has the potential to deliver the Council's objectives. The work undertaken for the Council by external advisors, prior to the formal procurement exercise, (previously reported to the Executive) suggests that this is a good outcome for the Council and that any new approach to the market would not produce a better outcome. Furthermore, any alternative strategy that did not rely on experienced market operators would require significant time to develop and would delay the opening of the Barbican even further.
18. The preferred bidder's proposals deliver the reopening of the Barbican and a significant boost to the city's economy as it comes out of recession. The Executive is therefore advised to proceed with authorising the award of a contract to the preferred bidder.

Corporate Priorities

19. The Council's Corporate Strategy describes the desire to "inspire residents and visitors to free their creative talents and make York the most active city in the country. We will achieve this by providing high quality sporting and cultural activities for all". Within the new strategy we commit to developing an "achievable plan for the Barbican Auditorium" to contribute to this priority.

Next Steps

20. The next steps are:
 - The procurement steps outlined in paragraph 10 above.
 - Referral of the financial implications of the proposals for the Council's capital programme to Council on 7 October 2010.
 - Completion of a development agreement and the lease: The Executive is asked to delegate authority to the Director of Adults, Children and Education in consultation with Head of Legal Service to negotiate and conclude these legal agreements. The aim will be to complete these by the end of October.

Implications

Finance

21. The Director of Customer & Business Support Service's overview of the financial implications of the preferred bidder's proposals are contained in confidential Annex 4.
22. The current revenue budget for the Barbican is £120k pa. This provides for building costs, for example business rates, insurance, security and services. The budget is likely to be fully committed in this financial year. (See Annex 4).
23. Previous proposals for the Barbican (mirroring the arrangements in place when the Council operated the Auditorium) provided 4 free days and 2 concessionary days for community use. These benefited the Carol Concert, the Festival of Remembrance and the York Guildhall Orchestra. The preferred bid secures use of the Barbican for these and other community organisations and provides 4 concessionary days. It does not, however, provide free days. The Executive is therefore recommended to retain a fund of £5k from the existing revenue budget to provide financial support in lieu of any free days.

Legal

24. Legal implications are as set out in the report.

Property

25. On conclusion of the Barbican procurement exercise Kent Street Coach Park will remain available to be disposed of separately.

Highways: Kent Street Pedestrian Refuge

26. Since the Barbican closed a pedestrian refuge has been constructed on Kent Street opposite the cycle way that runs between Kent Street and Paragon Street. If the preferred bidder's proposals are implemented, show vehicles servicing the Barbican will not be able to manoeuvre into the service yard without hitting this pedestrian refuge. The Council will need to resolve this in order that the Barbican can again be operated effectively as an auditorium.
27. There are no Human Resources, Crime and Disorder, or Information Technology implications.

Risk Management

28. In compliance with the Council's risk management strategy the main risks that have been identified in this report are those which could lead to the inability to meet business objectives leading to financial loss, and damage to the Council's image and reputation and failure to meet stakeholders' expectations. Measured in terms of impact and likelihood, the risk score all risks has been assessed at less than 16. This means that at this point the risks need only to be monitored as they do not provide a real threat to the achievement of the objectives of this report.

Recommendations

29. Members are asked to:

- i) Acknowledge the selection of SMG Europe (Holdings) Limited (or an appropriate nominated subsidiary) as the preferred bidder.
- ii) Delegate authority to the Director of Adults, Children and Education in consultation with Head of Legal Services to complete a conditional development agreement and lease ("Award of Contract").
- iii) Recommend to the Council that the financial implications relating to the Council's capital programme contained in confidential Annex 4 are approved.
- iv) Agree that any necessary works are undertaken to the Kent Street pedestrian refuge to ensure that show vehicles can service the Barbican.

Reason: To enable the Barbican Auditorium to be reopened for public use.

Annexes

1. Information in respect of the preferred bidder

Confidential Annexes

2. Summary of scoring and comparative advantages of the preferred bid
3. Summary of the main terms and conditions of the conditional development agreement and lease
4. Financial overview

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Wards Affected: All

For further information please contact the authors of the report

Background Papers:

Barbican Auditorium - Reports to the Executive 20 January, 3 March, 28 April, 22 September 2009 and 20 July 2010.