

Cabinet

3rd April 2012

Report of the Cabinet Member for City and Environmental Services

Castle Piccadilly - Conditional Concession Agreement

Summary

1. This report is an update on the progress of this project since the Executive Report of 7 July 2009 and Members are asked to note the steps taken since the identification of a Preferred Concessionaire by the Council.
2. The procurement competition has concluded, and only the award process remains to be addressed. Heads of Terms have been negotiated, which encapsulate the Preferred Concessionaire's proposal. The Council will shortly proceed with a contract award notice and settlement of a development agreement.
3. The purpose of this report is to:-
 - (i) Proceed to award the Concession to the Preferred Concessionaire through the issuing of an "Award Notice".
 - ii) Delegate to the Director of Customer & Business Support Services to conclude the negotiations on the Conditional Concession Agreement and to bring a further report for Members to approve such an agreement.

Background

4. Members will be aware of the approved Planning Brief for the Castle Piccadilly area, March 2006. The Council has pursued the objective of maximising its financial opportunity from its land holdings whilst seeking a comprehensive regeneration of the Castle Piccadilly area, including making the Council's extensive land holdings available to a potential developer in order to achieve those objectives.

5. A proposal by Land Securities for a comprehensive retail-led scheme was refused planning permission by the Secretary of State in September 2003.
6. Following engagement with a reference group of key stakeholders, including organisations who objected to the previous proposal, the Council prepared a new Planning Brief for the site which was adopted for development control purposes in March 2006.
7. Two retail studies have been undertaken (Roger Tym & Partners in 2005 and GVA Grimley in 2008) which conclude that the Castle Piccadilly site provides the best location for extending the current primary shopping area and the best site in the city centre for meeting the City's longer term retail needs.
8. In the Executive Report of 4th November 2008 Members were advised of the need to carry out a procurement exercise, and the Executive decided:-
 - i) That the Council's aims and objectives be confirmed as:
 - a) To achieve best consideration for its land;
 - b) To achieve the Council's vision and planning objectives as set out in the planning brief, including a high quality development which helps to meet the retail needs of the City;
 - c) A development that is viable and helps to deliver wider planning objectives for the area, e.g. provision of quality civic and open space, links across the river, riverside paths and relocation of the Castle car park; and
 - d) To achieve the comprehensive regeneration of the Castle Piccadilly area.
 - ii) That the commencement of a works concession procurement process to support the bringing forward of possible alternative developer solutions in a fair, transparent and proportionate manner, be approved.
 - iii) That authority be delegated to the Director of City Strategy, in consultation with the Director of Resources, to approve a set of criteria upon which the procurement competition process will be measured.

REASON: In order to achieve the Council's objectives whilst complying with the Council's own rules and the current regulatory framework.

9. A full procurement exercise has been undertaken in full consultation with the Council's procurement officers in accordance with all the procurement and legislative requirements. An OJEU European wide concession competition has been undertaken.
10. The Executive Report of 7th July 2009 informed Members that a decision had been made to proceed to develop a potential contract with the Preferred Concessionaire and conclude the procurement procedure. The Preferred Concessionaire is the corporate vehicles of LaSalle UK Ventures Property being the current long leaseholder and operator of the Coppergate Centre.
11. Following the report to the Executive the Council decided to provide the Director of City Strategy with delegated authority to enter into negotiations to achieve best consideration for the Council's assets.
12. Significant work has been undertaken to develop Heads of Terms and an appropriate Conditional Concession Contract with the Preferred Concessionaire.

Consultation

13. The procurement process has been carried out in accordance with the procurement and legislative requirements, and so full consultation has taken place in accordance with the requirements through advertising in the European Journal.
14. The proposed next steps in taking forward this project will include consultation with all stakeholders, including the public, in development of the masterplan of the area and any subsequent planning applications.

Options

15. The Council are now faced with two options:-
 - i) To conclude the procurement concession competition and proceed to issuing an award notice. To conclude the Condition Concession Agreement and report back to Members for approval.

ii) To discontinue the award process.

Analysis

16. Option (i) - Continue the project

- a) It is considered that option (i) provides the best opportunity for the Council to meet its aims and objectives as set out in the Executive Report of 4th November 2008 and as set out at paragraph 8 above.
- b) Advantages include achieving best available market consideration/revenue stream from the Council's land.
- c) Securing the best opportunity for potential development to proceed with the financial risk and obligation of development to be met substantially by the Preferred Concessionaire.
- d) The disadvantages of option (i) are that it may take a further approximately six years for the development to physically commence (the Preferred Concessionaire is seeking a maximum period of six years and six months from entering into a contract with the Council to proceed with the project).
- e) Income in part is likely to depend upon take up of space by retailers.
- f) Potential loss of car parking spaces and income during the 18 month construction period is a likely outcome but this may be mitigated by considering options for re-provision of some car parking off site.

17. Option (ii) - Discontinue

- a) It is envisaged that there are few benefits to option (ii) save that it would allow the Council the opportunity to reconsider its priorities in relation to the utilisation/ exploitation of its land.
- b) It would lead to further uncertainty and delay in the Council achieving its aims and objectives for this area.

Council Plan

18. The successful delivery of this scheme will help to achieve a number of the priorities of the Council Plan 2011 – 2015, including:
- a) “Create jobs and grow the economy” – Providing new retail space will support the economy of York and will provide new job opportunities both during the construction phase and the operation of the completed scheme.
 - b) “Get York moving” – any development will be delivered in accordance with the Council’s sustainable objectives, and the provision of city centre retail space will encourage the use of public transport due to the good transport network. City centre retail and business facilities will be able to be accessed by all more easily than out of town sites.
 - c) “Protect the environment” - The development will also radically enhance the public realm and townscape of the under-utilised part of the city centre which will support the sustainable growth of the city and coordinate with the vision and objectives of the Reinvigorate York initiative.
 - d) “Build strong communities” – The public will be consulted in the development of the masterplan for the area and also any planning applications.

Implications

19. (a) **Financial** – The procurement process which has been followed and the subsequent negotiations which will take place will ensure that the best consideration will be achieved in any agreement concerning future use and ownership of the land owned by the Council. Details of all financial consideration will be reported when negotiations are concluded and members are considering the final Conditional Concession Agreement.
- (a) **Human Resources (HR)** - There are no HR implications.
 - (b) **Equalities** – Development of the masterplan and any subsequent planning applications will be progressed with full consultation with the public and all other relevant groups.

- (c) **Legal** – The procurement process has been carried out in accordance with all procurement and legislative requirements as advised by external lawyers procured through the framework agreement. The conclusion of the procurement process and each key further step identified will be undertaken in consultation with the Council’s legal representatives.
- (d) **Crime and Disorder** – There are no Crime and Disorder implications.
- (e) **Information Technology (IT)** – There are no IT implication.
- (f) **Property** – The property implications are included and detailed in this report. If the Council proceed they will be committing the land owned by the Council for a significant period of time.
- (g) **Other** - None known.

Risk Management

- 20. An assessment of risk has been carried out at each stage of this project and has been managed successfully.
- 21. The next stage of the project will be conclusion of the procurement competition and notice of award of contract (Award Notice). The Council will await the statutory standstill period before then entering into contract with the Preferred Concessionaire. Once the contract has been awarded a further risk assessment will be carried out in consultation especially with the Corporate Landlord, Head of Legal Services, the Head of Financial Services and the Director of City and Environmental Services

Recommendations

- 22. Members are asked:-
 - i) To approve the issuing of the Award Notice.
 - ii) To delegate to the Director of Customer & Business Support Services that he concludes negotiations on the Conditional Concession Agreement and brings a further report for Members approval of the Agreement.

Contact Details

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**Cabinet Member and Chief Officer
Responsible for the report:**

Cllr. Dave Merrett, Cabinet Member
for City and Environmental Services

Bill Woolley
Director City and Environmental
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**Report
Approved**

✓

Date 23.03.12

Wards Affected: *Guildhall*

All

For further information please contact the author of the report

Background Papers:

Castle Piccadilly Planning Brief, March 2006