

Cabinet Member Report

Decision Maker: Cabinet Member for Finance & Council Reform

Date: 11 March 2024

Classification: Part Exempt

The accompanying appendix is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972:

Paragraph Three: Information relation to the financial or business affairs of a particular person (including the authority holding that information)

Paragraph Five: Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

Title: Seymour Leisure Centre Refurbishment

Ward Affected: Marylebone

Policy Context: Fairer Council/Fairer Communities

Key Decision: Yes – Decision is likely to result in significant expenditure or savings

Financial Summary: The Seymour Leisure Centre project has a budget of £40.252m within the approved capital programme.

The refurbishment of the Seymour Leisure Centre will transform the building into a multi occupied community facility incorporating the relocation and permanent home for Marylebone Library, new flexible community space, a new café and a range of measures to reduce the building's carbon footprint.

This report seeks authorisation to approve the Final Business Case (FBC), revised project budget, contract award for the main refurbishment works and associated contract variations.

Report of: Gerald Almeroth, Executive Director of Finance & Resources

1. Executive Summary

- 1.1 Following approval of the outline business case (OBC) for the proposed development of the Grade II listed Seymour Centre in March 2023 officers have been actively working to refine the commercial offer having identified a preferred contractor, Wilmont Dixon Construction Ltd (Willmott Dixon).
- 1.2 A process of value engineering has been carried out to identify potential areas of refinement which do not negatively impact on service delivery or quality, whilst refining the plans and obtaining cost information and testing financial assumptions.
- 1.3 The way forward will see the renovation of the existing pool with a new tank built within the existing tank to deal with leaks and provide level access and some accessibility improvements.
- 1.4 There will also be space for a gym, exercise studios and spinning (static cycling) studio, flexible matted space, double height soft play facility, squash court, sports hall, spa facility, library, flexible community space, café, registrar's office and office accommodation/staff welfare.

2. Recommendations

- 2.1 The Cabinet Member for Finance and Council Reform is recommended to approve:
 - 2.1.1 Contract award of the stage 2 contract for the refurbishment works at Seymour Leisure Centre to Willmott Dixon Construction Ltd for a contract sum of £36,563,000 as set out in the FBC (attached at Appendix A) supporting the delivery of a multi-use community facility.
 - 2.1.2 The revised project budget of £42.5million inclusive of fees and furniture, fixtures and equipment
 - 2.1.3 Contract variations to the following professional services contracts:
 - Architect
 - Project Manager
 - Services Engineer
 - Pre Construction Services Agreement (PCSA)

3. Reasons for Decision

- 3.1 Renovation of the Seymour Leisure Centre has been considered for a number of years. The current building is inefficient, and the environmental performance is suboptimal.
- 3.2 The council have committed to the relocation of Marylebone Library from its current leasehold base to a permanent new home within the Seymour Leisure Centre. The creation of a new Seymour Leisure Centre provides further opportunity for combining other council services into a single council space and will be a flagship project to benefit the Council's local community.
- 3.3 In order to progress the project now it is necessary to enter into contract with the Council preferred construction contractor.

- 3.4 The Council has already appointed an experienced design and consultancy team to progress the design of the refurbishment works. The FBC has been prepared to give assurance over the viability of the proposals.
- 3.5 The council is satisfied that the redevelopment of Seymour Leisure Centre will enable its commitments to the Fairer Westminster strategy to be achieved. This has been designed to ensure the Council to build a more inclusive city that celebrates its diverse communities, and where residents, workers and visitors from all backgrounds will feel welcome and safe.

4. Background

- 4.1 The Seymour Leisure Centre is a three-storey building with an overall total proposed development area of 8,538 m². It incorporates a range of leisure facilities including a swimming pool, a climbing wall, a sports hall, two fitness studios, and a gym. Built in 1935 the building has been subject to extensive renovations in the 1990s and early 2000s. The existing facilities are now outdated with urgent improvement works required. The total refurbishment of the building is now required to protect its heritage status and to enhance the range of services located there for the local community. The FBC outlined in this report shows that the project remains viable to deliver.
- 4.2 The building operates now as a leisure centre and is managed by the Council's leisure operator, Sports and Leisure Management Limited, trading as Everyone Active. It comprises: a five-court sports hall in the heart of the building; a swimming pool; gym; children's soft play; climbing centre; health and beauty treatment rooms and multiple studio spaces. There are a number of underused and redundant spaces within the building.
- 4.3 The proposed development will transform the existing leisure centre into a multi-purpose, mixed-use community facility - still with leisure as a key use - with vast improvements to accessibility and inclusivity. The design seeks to make the very most of the existing building, utilising all underused and redundant spaces, to make the building "work hard" in offering a fantastic asset for the local community.
- 4.4 The proposed scheme occupies the three existing levels of the building. On the ground floor is the sports hall, swimming pool and Marylebone Library, which forms a family zone with the children's soft play and bookable community spaces. Located on the lower ground floor are fitness and leisure facilities, the spa and back-of-plant rooms. Level 1 contains the retained gallery seating overlooking the sports hall, as well as the upper library level and office space.

5. Policy Context

- 5.1 The relocation of Marylebone Library from its current temporary base will facilitate a full range of library activities including flexible events space. This will support social inclusion and reduce isolation including digital isolation and health inequalities by providing a range of opportunities for people to make healthy lifestyle choices.
- 5.2 In addition to refurbished leisure facilities and a new Marylebone Library, the new Seymour Centre creates further opportunity for combining other council services into a single council space and will be a flagship project for the environment.

- 5.3 Engagement with both the public and internal engagement has been comprehensive since March 2021. Public engagement meetings are ongoing with a comprehensive communications and engagement plan in place.

6. Final Business Case

The FBC appended to this report shows the Five Case Strategic, Economic, Commercial, Financial and Management case for the refurbishment of the Seymour Centre.

- 6.1 The Strategic Case demonstrates how refurbishing the leisure centre would help contribute towards the Council's strategic objectives including:
- Westminster providing excellent public health and social care services and physical activity opportunities to ensure that all adults can stay healthy and thrive as they age.
 - Residents having the right skills to take advantage of the city's employment opportunities and to develop fulfilling careers.
 - Taking ambitious action on climate change with the aim of becoming a net zero council by 2030 and a net zero city by 2040.
 - Making decisions more transparently in a way residents feel listened to.

6.2 The Economic Case

- 6.2.1 The Economic Case applied the strategic objectives to a range of options for intervention and these include:
- Transformed leisure facilities provide physical activity opportunities with bookable spaces for wider council services to provide targeted support.
 - New opportunities for a café operator to run the café and offer employment/learning opportunities.
 - A reduction on carbon emissions by making improvements to the fabric of the building and to the heating and ventilation systems.
 - Extensive consultation which has informed the design and project brief.
- 6.2.2 The advantages and disadvantages of various options were explored as part of the OBC with the relative merits of each option extensively appraised over the preceding two to three years. The Preferred way Forward was assessed based on key critical success factors and the project objectives, including:
- need & demand
 - capital cost & revenue,
 - design & Historic England regulations.
- 6.2.3 The Commercial Case considers the lump sum construction cost, obtained following receipt of planning approval and incorporation of the value engineering exercise. Building on a number of professional services contracts awarded by the Council in support of the project's progression via various competitive tender processes.
- 6.2.4 Subject to Cabinet Member approval to the contract award for the stage 2 refurbishment works, the Council will enter into a Design and Build contract based on

the lump sum construction cost outlined in the recommendation of this report and the FBC.

- 6.2.5 The Finance Case summarises the financial impacts on the Council of the preferred way forward for Seymour Leisure Centre taking account of the necessary capital expenditure and the forecast ongoing revenue costs and income from the new facilities.
- 6.2.6 The Management Case is based on the existing leisure service operating model which expires in 2026 should the 5-year option to extend the leisure service contract not be implemented. Third party commercial operation of the leisure services will provide the most cost-effective means of delivering leisure services at the site. Leisure colleagues are exploring potential alternative management models in conjunction with colleagues across the council. It is anticipated that this internal consultation process will take until Summer 2024 to determine the future management strategy for the Council's leisure services to be delivered in the future.

7. Main Construction Contract

Background

- 7.1 In January 2022 a soft market testing exercise was conducted with the Southern Construction Framework (SCF) to gauge interest in the Seymour project. The SCF were chosen following a comprehensive review of potential procurement routes involving the professional team and internal finance and procurement.
- 7.2 SCF are a well-established framework with many main contractors appointed. Expressions of interest were received from 5 companies and ultimately 4 were invited to tender as one contractor withdrew due to existing commitments. Of the 4 contractors who bid, all were actively involved in the tender process with each company attending a site visit, a mid-tender interview and a post-tender interview, as well as raising clarifications throughout the process. As a result of this engagement, 4 good quality bids were received and assessed by the project team.
- 7.3 All 4 bidders submitted Commercial Workbook returns which measure their financial response to the project. Willmott Dixon were the highest scoring bidder in the Commercial Section. The Commercial Workbook was assessed by the project's Cost Consultants and Corporate Finance.
- 7.4 All bidders provided good quality, compliant bids. Following evaluation and moderation from a panel of separate quality and price evaluators, Willmott Dixon, were the clear winners with an overall score of 83%. The 2nd placed bidder scored 77.13%. Willmott Dixon were the highest scoring bidder for both price and quality and their PCSA fee was the lowest offered of the 4 submitted.
- 7.5 Willmott Dixon provided the best social value offer of the 4 bidders with commitments in excess of those required by the council and SCF and with a

moderated score of Excellent (5/5) for this and Design Management. No other bidder scored Excellent for a quality question.

Building Contract & Contract Sum

- 7.6 The council procured the appointment of Willmott Dixon Construction under two stage Design & Build contract and is not under any legal obligation to progress with them after delivering the services for the design elements under the PCSA. Willmott Dixon have submitted their price based on Stage 3+ design and this has been assessed in significant detail by the project QS and PM. The price submitted by Willmott Dixon results in a total project cost 5.7% above budget as outlined in the Final Business Case appended to this report.
- 7.7 Inflation has been a significant factor in increasing costs of construction, from the original projections underpinning construction costs. CPI has increased by 17.09% between September 2021 (when construction budget was calculated) to September 2023. The table below shows the volatility in inflation for Building Cost Information Service (BCIS) tender prices (BCIS tender price is intended to measure the trend of contractors' pricing levels in accepted tenders at commit to construct).
- 7.8 The project includes contingency details of which are outlined in the Final Business Case appended to this report. Given that this project is a refurbishment of a Listed building, it is recommended that the contingency is not reduced and that any further savings identified are used to increase the contingency allowance. The team continues to de-risk the project with some further intrusive investigations and localised asbestos removal work. This will enable the structural engineers to examine further key areas of the building. However, it is inevitable that the contractor will find 'unknowns' once the building is opened up and a significant contingency allowance would be prudent.

8. Contract Variations

- 8.1 This report is recommending approval of a number of contract variations as a consequence of additional services required to inform the value engineering undertaken for the project site to inform the FBC.

Consultant	Original Fee	Fee uplift / variations to date	Revised total fee	% increase on original fee	Comment
Atkinsréalis PPS Limited (formerly Faithful+Gould Limited)	£782,121	£203,298	£985,419	25.99%	Review of main pool options, wet leisure facilities, value engineering, asbestos removal

					This excludes Make Stage 5/6/7 fee uplift for increased construction cost. This is £19,920 based on advised construction cost, which will be paid through Willmott Dixon construction contract.
Make	£1,882,550	£183,350	£2,065,900	9.74%	
Pell Frischman	£892,653	£123,563	£1,016,215	13.84%	Review of main pool options, wet leisure facilities, value engineering, asbestos removal
Willmott Dixon (PCSA)	£122,000	£81,697	£218,137	78.8%	Original fee only due if don't enter building contract. Fee uplift are for surveys procured through WDC.

8.2 The above variations have been endorsed internally for approval by the Cabinet Member.

8.3 Change control breakdown relative to the above retrospective variations:

- **CCR01** – This instruction was to change to single sex changing facilities due to negative feedback received from public consultation.
- **CCR02** - This instruction was to review main pool options following a meeting with Senior officer and Members as a result of complaints received from a swimming lobby to retain the pool size and avoid the loss of swimming capacity. This review was to help inform whether to amend the pool configuration.
- **CCR03** - This instruction was to undertake an options review of wet leisure provision including a new secondary pool and to inform Members of whether to include a secondary pool.
- **CCR04** - This instruction was to implement the decision following the options considered above to maximise the pool size.
- **CCR05** - this instruction was to undertake Value Engineering (VE). The VE exercise identified opportunities to provide savings and part of this instruction/fees is to realise the potential savings of c.£1.7m
- **CCR06** - additional survey support to assist the Council's consultant, Socotec, to facilitate their understanding of the Council's requirements.

9. Finance Implications

9.1 The capital strategy agreed by Full Council in March 2022 contains a gross capital budget of £40.252m for the refurbishment works at Seymour Leisure Centre.

9.2 Up until the end of RIBA Stage 4 professional fees and other charges are scheduled to be £3.078m. Of this amount, the sum of £883k was agreed as part of a Cabinet

Member Report approved in October 2021. The remaining total of £2.195m of professional fees was approved by way of CMR in February 2022.

- 9.3 Up to the end of 22/23, a total of £1.585m has been spent on the scheme which relates to the professional fees, consultation, surveys, pre-planning and design. This leaves a remaining budget to be spent of £38.667m.
- 9.4 The latest estimate for the completion of capital works is £42.5m inclusive of preliminaries, construction, professional fees, nominal allowance for furnishings, installations, and equipment. This estimate excludes costs for decanting and move costs or storage costs off site or relocation of existing building users and associated costs. The overall estimated cost is now £2.3m above current budget of £40.2m.
- 9.5 The annual revenue income and expenditure from the running of the centre is managed through the Council's leisure contractor. Revenue implications are set out in Section 5 of the FBC, alongside more detailed analysis of the capital spend.

10. Legal and Governance Implications

- 10.1 The FBC seeking approval is respect of the transformation and refurbishment of the Project for the benefit of the Council's community and visitors to the local area. The appended FBC to this report sets out and details the strategic, economic, commercial and financial case(s) for the innovation refurbishment works required for the Project. It considers the future needs for local residents, in light of the Council's current Fairer Westminster Vision and Strategy Plan.
- 10.2 Section 1(1) of the Localism Act 2011 (the 2011 Act), the Council has the general power of competence for local authorities, defined as 'the power to do anything that individuals generally may do', which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area, provided it is not limited by other legislation.
- 10.3 The Council has the power to enter into contracts with third parties pursuant to its functions as provided for under section 1 of the Local Government (Contracts) Act 1997. This would include entering into the necessary legal documents and agreements referred to in this report.
- 10.4 The Council is a best value authority by virtue of section 1 of the Local Government Act 1999 (the Act) and section 3 of the Act sets out the general duty for a local authority to obtain best value when procuring a public contract for works, services and supplies. The Council should aim to secure continuous improvement in carrying out its statutory functions, having regard to a combination of economy, efficiency, and effectiveness.

The Contractor

- 10.5 The Contractor was appointed initially under a PCSA to deliver design services in respect of the refurbishment for the Project. Section 8 of the report sets out the initial contract sum awarded along with the reasons and rationale for the contract

variation increase. The total initial contract sum and variation sum amount to £203,697 are below the regulated threshold of the Public Contracts Regulations 2015 (the PCR) as such this total contract sum is not subject to compliance with the full requirements of the PCR. As such, subject to endorsement from the Council's Commercial Gateway Review Board (CGRB), Cabinet Member approval must be obtained to award the increased contract sum to the Contractor.

- 10.6 The terms of the PSCA permit the Council to instruct the Contractor to provide a proposal or quote in respect of the refurbishment works to be carried out for the Project. Where it is considered that the proposal received demonstrates value for money, the Council can award the main refurbishment contract to the Contractor.

The Consultants' Appointments

- 10.7 Section 8 of the report the consultancy appointments procured and contracts awarded to deliver the Project. Each appointment requires the initial contract sum to be varied and the increased sum approved are:

- Atkinsréalis PPS Limited (formerly known as Faithful+Gould Limited)

The original call-off contract sum awarded by the Council is £782,121 and the additional fees in the sum of £112,225 was endorsed by CGRB to seek approval in the sum of £112,225. Officer(s) have detailed that the additional services was required to deliver the Project works going forward and enable the Council to implement cost saving efficiencies.

- Pell Frischmann Consultants Limited

The original contract sum awarded by the Council is £892,653 and the additional fees in the sum of £120,563 was endorsed by CGRB. As above, officer(s) have detailed that the additional services are required to deliver the Project works going forward and enable the Council to implement cost saving efficiencies.

The above contracts were procured via the Crown Commercial Services (CCS) framework RM3741 - Project Management and Full Design Team Services - Lot 1 and 2 (the Framework).

Upon review of the contract terms, the contract variation for the additional fees in respect of both contracts are compliant with regulation 72(1)(a) of the PCR. This PCR regulation permits a variation without a new procurement irrespective of the monetary value where the procurement documents in clear, precise and unequivocal clauses may include price revision or related options. So long as the contract variation does not alter the overall nature the call-off contract procured. The contract condition definitions, clause 8, clause 10, Schedule 1 Part 2 and Schedule 2, Part 2 sets out the option for additional services to be provided for an additional fee which are the provisions the Council has used to vary these contracts.

- Make Limited

The original contract sum awarded was £1,882,550 and the additional contract variation sum is £179,180 exc VAT. The increased to the original contract sum is by

9.52% to a total contract sum of £2,061,730 excl VAT (£2,474,076 inc. VAT). This additional budget spend falls within the permitted safe harbour contract variation under regulation 72(5)(a) and (b) and is in compliance with the PCR.

- 10.8 The Equality Act 2010 requires that the Council must give "due regard" to the need to eliminate discrimination and advance equality of opportunity. The Council must further take into account its wider public sector equality duty (the PSED) under section 149 of the Equality Act 2010 when making any decisions about the delivery of the Project overall. If not already undertaken the Council should ensure that a Equality Impact Assessment (EQIA) is completed. If an EQIA has been conducted, this should be reviewed and updated at interval periods during the refurbishments for the Project.
- 10.9 The Cabinet Member Terms of Reference delegate the powers of this decision to the Cabinet Member. In accordance with Paragraph 33.12 of the Council's Access to Information Procedure, this proposed key decision was entered in the Forward Plan on 27 June 2023 and the necessary 28 clear days' notice has been given. A period of five clear days - the call-in period – must elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

11. Equalities Implications

- 11.1 The Equality Act 2010 requires public authorities to have due regard to the need to eliminate discrimination and advance equality of opportunity. The council must take into account its wider public sector equality duty under Section 149 of the Equality Act 2010 when making decisions.
- 11.2 The Seymour project is designed to increase the usage of the Centre by increasing the council 'offer' provided. This includes Library provision and the Library Service have at their core the promotion of equality of opportunity. The Library Service vision includes the statement "Libraries are thriving community spaces supporting literacy, learning, business, wellbeing and culture and the way that residents have used libraries continues to change."
- 11.3 The proposed café located in the library will be a multi-purpose and accessible environment.
- 11.4 The new Centre includes the aim of enhancing accessibility so that the current Leisure facilities and the new council services are accessible for the widest number of residents.

12. Consultation

- 12.1 The project has been subject to extensive consultation since March 2021. Consultation has involved a comprehensive programme of meetings, workshops,

surveys, newsletters, a range of printed and online materials, and in-person and online events.

- 12.2 The strategy, feedback received, and how the proposed works have evolved in response to the consultation has played a significant part in shaping the final proposals. This is set out in the Statement of Community Involvement document which will be included within the planning application.

If you have any queries about this Report, please contact:

Claire Nangle cnangle@westminster.gov.uk

Appendices

Appendix A – Final Business Case (exempt from publication under Paragraphs 3 and 5, part 1 of Schedule 12A of the Local Government Act 1972)

For completion by the **Cabinet Member for Finance & Council Reform**

Declaration of Interest

I have no interest to declare in respect of this report

Signed: _____ Date: 11 March 2024

NAME: **Councillor David Boothroyd**

State nature of interest if any

(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled Seymour Leisure Centre Refurbishment and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Finance & Council Reform

Date ...11 March 2024.....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.