

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO CABINET

14 MARCH 2023

### REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

#### RE-DEVELOPMENT OF COSY CORNER

#### 1. Purpose of report

- 1.1 The purpose of the report is to seek approval from Cabinet to modify the Cosy Corner construction works contract in accordance with rule 3.3.6 of the Council's Contract Procedure Rules.

#### 2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:
- **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
  - **Helping people and communities to be more healthy and resilient** – taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
  - **Smarter use of resources** – ensuring that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

#### 3. Background

- 3.1 In October 2020 Bridgend County Borough Council (BCBC) were informed that CREDU Charity Ltd had filed notice of intention to appoint administrators and had been informed by Welsh Government of the withdrawal of funding for what was known as The Maritime Centre project, funded through the Visit Wales Tourism Attractor Destination Programme (TAD). As a result of this BCBC terminated the agreement for the lease relating to the Maritime Centre at the Cosy Corner site and took back possession of the site on the 5<sup>th</sup> of November 2020. Some construction activity had commenced on the site and there were concerns with the health & safety risk that the half-completed foundations, various discarded building rubble and reinforced steel bars protruding from the ground, presented to the public. A risk assessment was undertaken by BCBC Health & Safety Officers and the site was secured

- 3.2 Following discussion with Welsh Government, officers undertook an outline appraisal of the short to medium term options available to BCBC to seek to access any possible remaining funds through the TAD programme for Cosy Corner.
- 3.3 In December, 2020 Cabinet authorised the Corporate Director, Communities, to develop and submit a proposal to access possible resources for improvements to Cosy Corner through the TAD programme.
- 3.4 In February 2021 BCBC received confirmation from Welsh Government that WEFO had completed the assessment of six of the nine criteria for assessment of operations / projects and requested that further information be supplied, in order to complete the remaining assessment stages. This was submitted and a revised grant offer letter was received on the 20 March 2021 giving authority to proceed.
- 3.5 In March 2021 Cabinet authorised the Corporate Director Communities to proceed at risk with the development of the remaining information required by WEFO and Welsh Government to utilise the already agreed direct match funding in order to secure a potential £1m grant.
- 3.6 In May 2021, BCBC concluded a procurement exercise and appointed architects with the required consultancy support to progress the project. The architects began producing the remaining information required by WEFO and Welsh Government taking the project up to RIBA stage 3 with the intention of giving greater cost certainty, confirmation of the level of match funding required, confirmation of deliverables for which State Aid cover would need to be considered and a forecast delivery profile.
- 3.7 A proposal was submitted to WEFO and Welsh Government in August 2021 and a further revised grant funding offer letter received on the 20 October 2021.
- 3.8 A planning application was submitted in November 2021 and planning permission for the redevelopment of the site was granted in February 2022.
- 3.9 In March 2022 BCBC invited tenders from suitable Principal Contractors which were evaluated in May 2022. Six bids were assessed and John Weaver Construction Limited was awarded the contract demonstrating their ability to deliver a high-quality development within the timescale set by the funders. The original contract value at award was £2,438,604.00.

#### **4. Current situation/proposal**

- 4.1 In August 2022 John Weaver Construction began mobilisation on site and the development commenced.
- 4.2 As part of the development BCBC commissioned the services of specialist Environmental Scientists to undertake further geo-environmental and geo-technical assessments of the ground conditions. Assessments had been carried out previously but this assessment would be a more intrusive study that would ratify the results of the previous assessments, ensuring the ground conditions remained suitable for the proposed development. The report made recommendations for specialist advice to be sought following detection of contamination, including asbestos, in the south portion of the site. What must be recognised at this point, is that this site was only passed back to BCBC upon lease relinquishment, on the 5<sup>th</sup> of November 2020. So

unfortunately, BCBC inherited any legacy contamination issues with the site, including a requirement for asbestos removal.

- 4.3 Since receiving the report the Principal Designers and Principal Contractors have liaised with various specialist consultants and undertaken further assessment of the ground conditions in the south portion of the site. Where possible, the workforce have been focusing their efforts on the construction of the building in the meantime while further assessments were undertaken and a remediation plan was devised.
- 4.4 Certain remediation works associated with testing and the removal of unsuitable material have been instructed to address the contamination and the existing contract with the Principal Contractors was modified in line with Contract Procedure Rule 3.3.6. The value of that modification was £100,000 and was authorised by the Corporate Director Communities in accordance with the Council's Scheme of Delegation under decision reference CMM-ED-23-023.
- 4.5 However, the period of time spent testing and clarifying the nature and extent of contamination has resulted in delays which, along with delays awaiting approvals from Welsh Water and associated design changes, have resulted in a period in the region of 12 weeks delay. As a result BCBC are now liable for an additional 12 weeks contractor costs. In addition, circa 2,000 tonnes of imported soil is needed to bring the site to formation level and replace site won material that was deemed unsuitable, as a result of potential asbestos contamination, along with the associated ground works and introduction of separation layer membranes. It is essential that the site is cleared of all legacy contamination and this would have been the case with whoever had been chosen to bring this site forward for development. Once identified the contamination has to be dealt with as specified by the specialist environmental consultants.
- 4.6 This has therefore created a need to modify the construction works contract to ensure that the completion of the building is prioritised first, to enable prospective tenants to access and fit out sooner and to support the requirements of the funder. The purpose of this Cabinet report is to seek approval to modify the construction works contract in line with Contract Procedure Rules, 3.3.6 to a value greater than £100,000 – the value that can be authorised by the Corporate Director Communities. This will allow officers to authorise what is currently considered to be the full and remaining package of works known to be required at this time to resolve the issues that have arisen and complete the works to a value of no greater than £265,790, with this value being the amount of funding still available within the capital envelope of the project in the Council's capital programme. It is considered that this additional work, as set out in paragraph 4.5 above, can be achieved well within the budget within the capital programme. The exact amount will not be known until the soil removal and replacement is complete, as only an approximation of 2,000 tonnes can be made at this time. It is considered however that variations on this may only be minor, so can be accommodated within the capital programme budget with little overall risk. This, taken with the previous modification valued at £100,000 made under decision reference CMM-ED-23-023, will result in a revised contract value of no greater than £2,804,394.
- 4.7 Rule 3.3.6 of the Council's Contract Procedure Rules provides that procured contracts may be modified without the requirement for a new procurement procedure where the value of the modification is below both of the following values: (i)

the relevant applicable financial thresholds contained in the Regulations, and (ii) 10% of the initial Contract Value for service and supply Contracts and 15% of the initial Contract Value for works Contracts, provided that the modification does not alter the overall nature of the Contract or Framework Agreement.

- 4.8 The proposed modification will not increase the value of the contract in excess of 15% of the original contract value and will result in a revised contract value no greater than £2,804,394.
- 4.9 The decision to approve the modification of the contract needs to be made to allow activity to continue on the site. Any further delay to the programme would potentially create a greater financial uplift to the project in the form of contractor preliminaries and may extend the contract further.
- 4.10 In addition, due to associated external funding grant awards, especially the European Regional Development Fund and associated terms and conditions, the Council is at an increased risk of grant clawback if work activity on site halts and the project cannot be delivered in line with funder timeframes. Together these potential implications would seriously prejudice the interests of the Council
- 4.11 It must be made clear however, that the request to increase the works contract still falls within the value of the Capital Programme approved by Council on 1 March 2023, therefore no further monies are required to support this request.

## **5. Effect upon policy framework and procedure rules**

- 5.1 There is no effect upon the Council's policy framework or procedure rules as a result of this report.

## **6. Equality Act 2010 implications**

- 6.1 An initial Equality Impact Assessment (EIA) screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh language. It is therefore not necessary to carry out a full EIA on this policy or proposal at this stage.

## **7. Well-being of Future Generations (Wales) Act 2015 implications**

- 7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment Template has been completed and a summary of the implications from the assessment relating to the five ways of working is below:
- Long-term: By taking forward the improvement of Cosy Corner, BCBC is seeking to improve the area beyond its current condition for use and access in the long-term.
  - Prevention: Undertaking improvements to Cosy Corner will ensure that the condition of the site does not deteriorate further.
  - Integration: The proposal will achieve this way of working by recognising the approaches that are proposed for support are those that have been identified by internal and external stakeholders and the proposal itself will integrate with other existing activity in the area.

- Collaboration: Future action on Cosy Corner as outlined above will take place in collaboration with partners through the Harbour Operational Group and the Harbour Board.
- Involvement: Proposals relating to the future of Cosy Corner will be developed and delivered in close partnership with key stakeholders. Discussions and development with key BCBC officers will be undertaken.

## **8. Financial implications**

- 8.1 The request to increase the works contract falls within the Capital financial envelope for the Cosy Corner project within the Capital Programme approved by Council on 1 March 2023.

## **9. Recommendations**

- 9.1 Cabinet is recommended to:

- Authorise the modification of the Cosy Corner construction works contract to include additional works and services by the contractor which have and continue to be necessary since the initial procurement to a value of no greater than £265,790 and increase the contract value to a value of £2,804,394 in accordance with rules 3.3.6 of the Council's Contract Procedure Rules.

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**6 March 2023**

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**Background documents:** None