

Meeting of:	CABINET
Date of Meeting:	17 OCTOBER 2023
Report Title:	PORTHCAWL GRAND PAVILLION LEVELLING UP FUND PROJECT UPDATE
Report Owner / Corporate Director:	CORPORATE DIRECTOR COMMUNITIES
Responsible Officer:	DELYTH WEBB GROUP MANAGER STRATEGIC REGENERATION
Policy Framework and Procedure Rules:	This report includes a proposal to suspend the requirements of the Council's Contract Procedure Rules.
Executive Summary:	The purpose of the report is to provide an update to Cabinet on progress made in relation to the Porthcawl Grand Pavilion project and relevant information relating to the Levelling Up Fund funding programme and to seek authority to suspend the requirements of the Council's Contract Procedure Rules and to authorise our cultural services partners AWEN to procure the services of Purcell's Architect's via the PAGABO framework to continue the RIBA Stage 4 design stage for the project.

1. Purpose of Report

- 1.1 The purpose of the report is to provide an update to Cabinet on progress made and decisions taken in relation to the design, procurement and programme of the Porthcawl Grand Pavilion project and to seek authority to suspend the requirements of the Council's Contract Procedure Rules and authorise our cultural services partners AWEN to procure the services of Purcell's Architect's via the PAGABO framework to continue the RIBA Stage 4 design services for the project. The report also provides relevant information relating to governance of the project and of the Levelling Up Fund (LUF) funding programme.

2. Background

- 2.1 On the 14th of June 2022, Cabinet endorsed the submission of two funding bids for projects within the County to the UK Governments Levelling Up Fund. The purpose of the Levelling Up Fund (LUF) is to provide investment into local infrastructure, urban and economic regeneration and local transport projects. The LUF programme was competitive, and each Local Authority was allowed to submit one bid for each parliamentary constituency within their area to not exceed £20m and a further bid of up to £50m for a strategic transport project.
- 2.2 A bid was submitted on the 2nd of August 2022 for the Bridgend Constituency for the redevelopment of the Grade II Listed Grand Pavilion in Porthcawl. The principal objectives of the renewal of the Grand Pavilion were to address the issues of risk to the building fabric that existed in the condition of the concrete structure whilst also meeting the needs and aspirations of local people for extended and improved arts, heritage and library services.
- 2.3 The new facilities proposed within the funding bid include:
- New function spaces at first floor (Esplanade) level;
 - New rooftop function & cafe spaces offering elevated sea-views;
 - New Studio theatre and ancillary facilities;
 - Improved first floor auditorium;
 - Improved lower ground floor multi-use area;
 - Increased and improved welfare facilities including new changing places facility;
 - Business incubation or workshop spaces to street level;
 - New office facilities.
- 2.4 The Council, working with its cultural services and delivery partner AWEN who operate the Grand Pavilion, committed a sum of £200,000 to the development of this project and funding bid from Bridgend County Borough Council's (BCBC) Feasibility Fund budget. The RIBA Stage 3 design work was undertaken by Purcell Architects Ltd who supported the Council with a well presented and detailed application.
- 2.5 On the 20th of January 2023, the Council were informed that the bid was successful and that the Council would be awarded £18m towards the Grand Pavilion Project.
- 2.6 In May 2023 the Council received the official Memorandum of Understanding (MoU) and the terms and conditions of the grant award from UKG were known.
- 2.7 It is worth noting that there have been multiple delays to process from UKG including the opening of the application portal, a four month delay in the decision making process from October 2022 until January 2023, and in the exchange of monitoring guidance. It is also the case that the required documentation for submission changed between rounds one and two, in addition to a change in the statutory regime on subsidy control. All of which have meant that it has been very difficult to progress project work as it would have been at risk for the Council.

2.8 Current terms of the grant award set out that the project will be completed by Spring of 2025. It is now imperative that the project progresses at pace, that the detailed design stage is completed, planning permission approved, and that the procurement of a professional services team and main contractor is in place to enable works on the building itself to commence in the Spring of 2024.

3. Current situation / proposal

3.1 In order to ensure that the project incurs no further delays and is delivered in line with the current programme and in line with the terms and conditions of the grant, the sections below set out the governance, consultation and procurement process which has been undertaken or requires to be progressed.

3.2 The current project programme sets out that the Pavilion will close early in 2024, following this year's Christmas programme which Awen are already committed to delivering. In line with recommendations from Subject Overview & Scrutiny Committee 3, the team are considering all options as to how Awen's arts and cultural programme could continue to be delivered within Porthcawl whilst work is completed on the Pavilion.

3.3 The Pre Application Consultation (PAC) for the full planning application as been submitted and will follow due process to secure planning permission in conjunction with the completion of the detailed design process.

3.4 As stated above, the current terms of the LUF programme requires the project to be complete by Spring 2025, which is an incredibly tight timescale for any project of this scale and nature. The Project Team has made the LUF Management Team aware of the tight programme and will continue to keep an open dialogue with them on any movement to the project end date.

Procurement

3.5 As a result of the tight time scales, and in order to progress the project at pace, in August 2023 a Delegated Decision (CMM-PRU-23-30) was proposed by the Director of Communities and approved under paragraph 1.1 of Scheme A of the Council's Scheme of Delegation to suspend the Council's Contract Procedure Rules (CPR's) and to authorise our cultural services partners AWEN to appoint architects Purcell Ltd, that undertook the original designs and RIBA Stage 3 work, to complete the RIBA 4 detailed design work up to a value of £100,000, due to their significant experience to date on the building and its structure and their ability to complete this work expediently. This decision was made in consultation with Legal Services, Finance and Procurement. In accordance with the Part 4 Rules of Procedure of the Constitution consultation was sought with the Chair of Corporate Overview and Scrutiny Committee (COSC) and Scrutiny Chairs to agree that the decision proposed was reasonable and to it being treated as a matter of urgency.

3.6 By suspending the CPR's and allowing AWEN to commission Purcell Ltd via the PAGABO framework, it expedited the work and meant that a maximum value of

£100,000 of design work could be completed during the summer recess and then reported to an appropriate Cabinet Meeting.

- 3.7 This report now recommends that Cabinet approve that, as our partner in this project, Awen progress the remainder of the detailed design stage procurement via the PAGABO framework for continuity purposes. The value associated with the remaining commission is circa £650,000. This recommendation would require the continued suspension of the requirements of the Council's CPRs and approval to appoint Awen to procure services on behalf of the Council. The design services procured by AWEN will be relied upon by the Council and will inform its procurement of the main construction works contractor for the project. The appointment will therefore need to be transferred from AWEN to the Council prior to the award of the construction contract.
- 3.8 There are risks in agreeing to suspend the Council's CPRs and appointing AWEN to procure services on behalf of the Council. The Council's CPRs ensure that procurement exercises are lawful and carried out in compliance with the requirements of the Public Contracts Regulations 2015 and satisfy principles of transparency, non-discrimination and equal treatment. At the current proposed contract value threshold, the Council's CPRs would require that the requirement be openly advertised on Find a Tender and procured in accordance with the requirements of the Public Contracts Regulations 2015. In agreeing to suspend the CPRs the Council is exposed to the risk of potential challenge from other providers of such services on the basis that the award breaches regulatory requirements. Suspending the requirements of the Council's CPRs in this instance also presents a potential risk of funding clawback as the LUF funding conditions contain a requirement that the Council ensure that all legal and other statutory obligations and consents be adhered to including procurement duties.
- 3.9 The above risks are mitigated to a degree by AWEN procuring the services through the PAGABO Professional Services in Construction and Premises Framework Agreement, as entry onto that framework agreement would have been subject to an open procurement process. However, the use of the framework has not been endorsed for use by the Council. The option taken by AWEN to directly award the contract to Purcell does not meet the requirements of the Public Contracts Regulations 2015 and for BCBC purposes would not be a compliant award. The best means to mitigate the procurement and funding risk would be for the Council to run a compliant procurement process and to award the contract to the bidder deemed to represent the most economically advantageous tender in accordance with the requirements of the Public Contracts Regulations 2015 but doing so would delay the completion of the design works and may result in the appointment of an alternative service provider.
- 3.10 The above decision and risk should be considered against significant other risks posed by the tight LUF grant funding timescales. These timescales were condensed following significant delays during the application and approval processes. It is strongly felt that any further delays pose the greater risk to the project. If the next

stage in procurement is delayed there is a significant risk that the project will not be designed fully, planning permission gained and be ready for a start on site in Spring 2024. Furthermore, if these timescales are not met the construction and build will also be at significant risk. Therefore, the project would be at serious risk of not completing by the deadline imposed by the LUF grant terms and conditions.

- 3.11 There is also risk attached to not appointing Purcell to continue to lead the design team. This team of architects has successfully led the design of the project to date through the application process, planning process and was appointed to commence RIBA Stage 4 detailed design as a result of the suspension of the CPR's to progress the design in August.
- 3.12 As part of the detailed design process the Council now intends to appoint a cost consultant to work alongside the design team. The appointment will be made in line with the Council's CPRs. This appointment will provide cost assurance prior to the tender for the construction contractor.

Project Governance

- 3.13 Governance procedures are being put in place by officers in conjunction with our partners Awen and UK Government in order to oversee the compliant delivery of the project in line with BCBC internal procedures and terms and conditions set out in the LUFs grant offer.

Formal governance processes are set out below.

- 3.14 An internal Project Board is being established, which includes;

Project Board
Senior Responsible Officer (SRO) - Director of Communities
Project Manager
Legal
Finance
Procurement
Leisure and Cultural Services
Awen Cultural Development Trust
Project Assurance

- 3.15 The Project Board will in turn provide quarterly updates and reports by exception to the Capital Programme Board and where necessary Corporate Management Board (CMB).
- 3.16 Regular communication occurs between the Council and the LUF performance delivery team. Following the signing of the MoU, the project team attended the project inception meeting with the LUF performance delivery team. The Project Manager, Finance and Project Assurance Officers also meets with the LUF Team once a quarter to discuss the project and progress. This is done in line with the submission of a quarterly Monitoring Review Form along with quarterly claim forms. Two have been submitted to date and both have been accepted and verified.

- 3.17 An external project manager has been appointed to oversee the RIBA stage 4 design, with design team meetings taking place every week. The project manager will provide regular design reports to the project board.

Consultation

- 3.18 BCBC and Awen have previously reported to both Cabinet and Corporate Management Board on the public and stakeholder consultation which took place during the RIBA 2 design stage and which was fundamental in demonstrating support for the project as part of the application process.
- 3.19 More recently, in order to support the RIBA stage 4 design process and in advance of the submission of the planning application, public consultation exercises were held between 3rd and 16th July this year, in addition to sessions for key local stakeholders and local members.
- 3.20 The public are also currently invited to participate in a consultation process as part of the Pre-Application Consultation process (PAC), along with statutory consultees in order to support the planning process.
- 3.21 The consultation also enabled the public to view the proposals and share feedback on-line during the process.
- 3.22 Consultation will be critical going forward and key stakeholders including local representatives and end users and will be brought together to support the process at key milestones.

4. Equality implications (including Socio-economic Duty and Welsh Language)

- 4.1 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. This project will only enhance opportunities to support inclusion and protection and therefore it is not necessary to carry out a full EIA on this policy or proposal.

5. Well-being of Future Generations implications and connection to Corporate Well-being Objectives

- 5.1 The Well-being of Future Generations (Wales) Act 2015 Assessment based on the 5 ways of working has been considered:
- Long Term - Investment in and redevelopment of major infrastructure is critical to developing confidence in and growing the economy, ensuring local investment while providing the ability to operate across the region and beyond. Investment in some of our major assets is also essential to secure their long term sustainability and contribution to the reduction in carbon emissions of our infrastructure and assets.
 - Prevention - Investment in assets now will prevent further decline in the integrity of our structures. It will also prevent a decline in local environment and the quality of cultural and business facilities within our communities.

- Integration - This project will ensure that local cultural facilities will be provided and integrated into the local community. The public will be able to make better use of existing facilities and will be provided with greater social opportunity, employment and pride in their community.
- Collaboration - The success of the project will be founded on cross sector working and collaborative effort with our delivery partners, stakeholders and professional advisors to use creative and cultural activity to improve population well-being.
- Involvement - The success of this project will rest of the effective engagement with key public and operational stakeholders. This will be through formal channels such as the planning process and on-going public and stakeholder conversations during design and delivery.

5.2 There are no significant or unacceptable impacts upon the achievement of the Council's well-being goals/objectives.

6. Climate Change Implications

6.1 Taking action to support decarbonisation is critically important in order to protect and sustain the environment over the long term. The proposed development at the Grand Pavilion Porthcawl will consider all available options within its design and delivery to meet a reduction in carbon emissions aligned with the Council's wider decarbonisation commitment. This is a Grade II listed building, with significant value in its original design and construction. However significant emphasis will be placed on mitigating and reducing the carbon emissions of our heritage infrastructure and assets.

7. Safeguarding and Corporate Parent Implications

7.1 Due regard has been paid to the BCBC Safeguarding Policy which seeks to safeguard and promote the wellbeing of children, young people and adults at risk of abuse or neglect and to ensure that effective practices are in place throughout the Council and its commissioned services. Given the subject matter of this report no negative safeguarding implications have been identified.

8. Financial Implications

8.1 The financial position relating to the project has not changed since the submission of the project.

8.2 As stated earlier in the report the detailed design is underway and will influence and determine the final cost of the project and financial ask of the authority. Until the detailed design and costing work is complete an explicit total project cost is not available.

8.3 The LUF application encouraged a minimum 10% match funding requirement for each project. This was set out and agreed as recommendations to Cabinet on 14 June 2022 and Council on 15 June 2022.

8.4 The match funding requirement for the project is £1,999,800 for which funding has been set aside and approved in the capital programme.

8.5 The anticipated overall project costs are as follows:

<i>Porthcawl Grand Pavilion redevelopment</i>	
Total Project Cost	£19,998,116
Levelling up Fund	£17,998,316
Match funding requirement	£1,999,800

8.6 The project team will make every attempt to ensure that the design and construction of the project is completed within the identified envelope. Officers will also make every effort to identify and secure other sources of funding to mitigate any changes to the overall project costs.

8.7 Following the completion of the detailed design stage a more detailed report setting out the financial profile for the construction programme and any changes to the overall project costs will be prepared for consideration by Cabinet. Any changes to the project cost would require approval from Council. Without that approval the scheme will not be able to continue.

8.8 Suspending the requirements of the Council's CPRs to allow AWEN to procure the remainder of the design work for the Grand Pavilion with Purcell's Architects via the PAGABO Framework presents a potential risk of funding clawback as the LUF funding conditions contain a requirement that the Council ensure that all legal and other statutory obligations and consents be adhered to, including procurement duties.

8.9 The risk of funding clawback should be considered against significant other risks posed by the tight LUF grant funding timescales. If the next stage in procurement is delayed there is a significant risk that the project will not be designed fully, planning permission gained and be ready for a start on site in Spring 2024. Furthermore if these timescales are not met the construction and build will also be at significant risk. Therefore, the project would be at serious risk of not completing by the deadline imposed by the LUF grant terms and conditions.

9. Recommendations

9.1 It is recommended that Cabinet: -

- Note the progress that has been made in connection with the design of the project.
- Note that appropriate and robust governance will be put in place to support this project.
- Note the delegated decision (CMM-PRU-23-30) to suspend the Council's CPRs in relation to allowing our cultural services partners AWEN to procure the services of Purcell's Architect's via the PAGABO framework to commence the RIBA Stage 4 design stage for the Grand Pavilion Project in Porthcawl.

- Agree to further suspend the Council's CPR's to allow our cultural partner AWEN to procure the remainder of the design work for the Grand Pavilion Porthcawl with Purcell's Architects via the PAGABO Framework, to ensure that the design process is completed within the timescales as set out by the LUF funding agreement.
- Delegate authority to the Director of Communities, in consultation with the Chief Officer - Finance, Performance & Change and the Chief Officer - Legal & Regulatory Services, HR & Corporate Policy, to enter into any required agreements to novate the design appointments to inform the procurement of the main works contractor.
- Note that the Director for Communities is progressing with the appointment of a project Cost Consultant in accordance with the Council's CPR's.
- Note that a future report to both Cabinet and Council will come forward in due course to set out the financial implications of the project, prior to procuring a works contractor for the construction contract for the Grand Pavilion project.

Background documents:

Cabinet Report 16th November 2021, Levelling Up Fund Priority Projects

Cabinet Report 14th June 2022, Levelling Up Fund Priority Projects