

CABINET
15 JULY 2009

WATERSIDE PROJECT TROWBRIDGE

Executive Summary

The Waterside Development Project involved the disposal of the East Wing Campus of County Hall, together with Court Street Car Park to provide a new library and leisure scheme including bowling and a cinema.

Contracts were exchanged with Modus in December 2007 with both parties being able to terminate the agreement from mid June 2009 onwards.

Due to the deterioration in the economic climate the project has become unviable, and last month both the Special Purpose Vehicle (SPV) and the parent company were placed into administration.

Officers have been investigating opportunities to keep the Project alive, in particular the possibility of one of the under-bidders, or another company, acquiring the SPV. However, the external legal advice is that this is likely to amount to a material change in contract terms and thus would be in breach of European Procurement Regulations (Public Contract Regulations 2006).

Accordingly, this report invites Members to:

1. Agree to the termination of the contract with Modus Ventures Trowbridge, noting the implications for the Council.
2.
 - (i) Confirm the Council's support for delivering the regeneration benefits to the Town through the provision of leisure facilities as part of the Waterside Project.
 - (ii) In the event that Members wish to continue to support the scheme:
 - (a) Members will need to consider whether it is acceptable for investigations into the way forward to be conducted by an officer working group under the direction of the Transforming Trowbridge Executive Board.
 - (b) Note that there is an impact on the revenue account relating to the previous expenditure by the Council arising from Modus Ventures Trowbridge being placed into administration.

Proposal

That Cabinet resolves:

- (i) To terminate the contract with Modus Ventures Trowbridge.
- (ii) That the Council continues to support the regeneration of Trowbridge by its commitment to the provision of leisure facilities in Trowbridge through the Waterside Project.
- (iii) That officers investigate areas which will assist the financial viability of the Project under the Direction of the Transforming Trowbridge Executive Board and report back to Cabinet at regular intervals.
- (iv) To note that, with Modus Ventures Trowbridge being placed in administration, the amount already spent on consultants will have an impact on this year's revenue account.

Reason for Proposal

To confirm the Council's continued support for the regeneration of Trowbridge and consider options for the development of the key regeneration site.

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WATERSIDE PROJECT TROWBRIDGE

Purpose of Report

1. To advise Members as to the position of the Waterside Development due to the economic downturn and the resulting failure of our development partner, Modus Ventures Trowbridge and provide options relevant to the way forward for Members' consideration.

Background

2. After an extensive marketing process, the former Wiltshire County and West Wiltshire District Councils exchanged conditional contracts with Modus Ventures Trowbridge in December 2007 for the development of the East Wing Campus of County Hall, together with Court Street Car Park, for a mixed use leisure scheme.
3. Regrettably, during 2008 the economic climate substantially deteriorated rendering the original scheme unviable.
4. The Company, in consultation with officers, undertook significant variations through the removal of the office component and a substantial amount of the residential element of the scheme, whilst maintaining the fundamental elements of the new library and leisure facilities, in an effort to make it work financially.
5. Despite signing up tenants for the leisure elements, the hotel and more than half the cafes, the tightening of credit facilities and the substantial reduction in the amount that banks are prepared to lend as a percentage of the value of the completed scheme led to Modus being unable to deliver the Project.
6. The majority of regeneration schemes throughout the country have been similarly affected, with banks withdrawing lending facilities due to declining values of the completed projects.
7. This has meant a number of development companies are facing serious financial difficulties. Regrettably, last month Modus Ventures, together with the Waterside Project delivery company, were placed into administration.
8. Officers have been investigating whether there is any way that the Project could continue. However, the limitations laid down by the Procurement Regulations have precluded any immediate solution and re-tendering the Project is the only foreseeable way forward.

9. The conditional contract that the Councils entered into in December 2007 included a clause by which either party could terminate the arrangement if certain conditions had not been met by mid June 2009. With the company in administration, it therefore would be appropriate to terminate the contract, although this will incur a significant revenue cost for the Council.

Main Considerations for the Cabinet

10. The first consideration for the Council is whether to continue to support the Waterside Project as the means for delivering regeneration benefits for the town.
11. The original Trowbridge Urban Design Framework (UDF) identified that the provision of leisure facilities would help to stimulate development elsewhere in the town. The preferred location would be on land held by the public sector as such schemes do not generate as much value as other uses and therefore would be less likely to come forward from the private sector.
12. Accordingly, the East Wing Campus of County Hall, together with the Court Street Car Park, were allocated for such development in the Local Plan Supplementary Guidance.
13. Whilst the Waterside Project was still proceeding, development commenced by Parkridge on the Wincanton site further along Bythesea Road and now Sainsbury's has started construction work for a supermarket on the former brewery site. Whether there is a link between the Waterside Project and these schemes is unknown, but it is reasonable to believe that the Project assisted in raising the profile of the town.
14. There are still a number of sites in the town that remain undeveloped and, if the Waterside Project can be delivered, it is believed that this may encourage development whilst providing the leisure facilities that emerged from the community's representations within the UDF report.
15. In the event that Members wish to support the Project then consideration needs to be given to measures to make the scheme economically viable, bearing in mind that when the economy improves from its current state, property values will not return to the level at which contracts were exchanged in 2007.
16. It is suggested that officers form a project working group under the direction of the Transforming Trowbridge Executive Board to investigate how best to deliver the regeneration benefits envisaged by the original Waterside Scheme. This will allow officers to look at how the project could be taken forward in the light of the Council's Workplace Transformation Programme and consider how the project might complement and interact with other regeneration sites around the town centre (for example, St. Stephen's Place and Cradle Bridge, the former Peter Black's site) and the regeneration of Trowbridge as a whole. Officers would report back to Council at regular intervals.

17. As referred to earlier in paragraph 8, the Council can formally terminate its contract with Modus Ventures Trowbridge. It is recommended that this is now implemented as there is no benefit in not doing so.
18. This will mean the amount already spent on consultants has to be transferred to the revenue account.

Risk Assessment

19. There is a risk that further expenditure will be incurred without an economically viable scheme being delivered.
20. However, a full risk register will be developed once the project has progressed sufficiently.

Financial Implications

21. If Court Street Car Park continues to be incorporated in the scheme then there will be a loss of car parking revenue.
22. The project involves the relocation of Council's services. However, it is intended that these should be examined once again in conjunction with the Workplace Transformation Programme.
23. To take the Project forward will incur consultant's fees. It is recommended that a project working group is created which will address this aspect at an early stage.
24. It is considered that with Modus Ventures Trowbridge being placed into administration, the amount already spent on consultants is deemed to be required to be transferred to the revenue account. Formally terminating the contract with the company will mean that this must be done. Work is in progress to establish the amount of expenditure so far that would be charged to the revenue account upon termination of the contract.

Legal Implications

25. Termination of the 2007 conditional contract with Modus must be in accordance with the procedures laid down in the contract. Legal input will be required on both the content and service of the notice of termination.
26. If the opportunity afforded by the Project is to be re-marketed at some point in the future, this must be done in accordance with European Procurement Regulations (Public Contract Regulations 2006), which will require a full re-tendering process.

Options Considered

27. The Council could decide not to proceed with the Waterside Project at all. However, this would be a considerable disappointment for the community that has had a long held desire for leisure facilities to be provided in the town. Abandoning the Project would also be a signal to other development land owners that the Council did not have faith in the future prospects for the town.
28. The Council could decide to suspend any further work until such time as the economic climate has improved. However, it would be prudent to put in place as much of the preparatory work in advance so that the Project can take early advantage of any improvement in economic conditions.

Conclusion

29. It is regrettable that the current economic climate has led to Modus, like many other developers throughout the country, being unable to deliver the Waterside leisure development.
30. However, if the Council is still committed to assisting in the regeneration of Trowbridge, it is believed that this can best be achieved through the formation of an officer working group under the direction of the Transforming Trowbridge Executive Board.
31. The Cabinet be asked to consider and approve the Proposal.

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The following unpublished documents have been relied on in the preparation of this Report:

None

Appendices

None