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Thursday, 8 November 2018

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## **Resources and Governance Scrutiny Committee**

### **Minutes of the meeting held on Thursday, 8 November 2018**

#### **Present:**

Councillor Russell (Chair) – in the Chair

Councillors Ahmed Ali, Andrews, Barrett, Clay, Davies, Lanchbury, Kilpatrick, R Moore, B Priest, A Simcock, Watson and S Wheeler

#### **Also present:**

Councillors: Leese, N Murphy, Ollerhead and Stogia

**Apologies:** Councillor Rowles

#### **RGSC/18/57 Minutes**

#### **Decision**

The Committee agreed the minutes of the meeting held on 11 October as a correct record.

#### **RGSC/18/58 Factory Project**

The Committee considered a report of the Strategic Director (Development) and the City Treasurer, which updated Members on the progress with the delivery of The Factory Arts Centre, including the terms for the Notice to Proceed to construction of the main works under the executed Management Contract for the delivery of The Factory and progress with the redevelopment of St John's.

The Leader referred to the main points and themes within the report which included:-

- In line with other key cultural institutions in Manchester, The Factory committed to increasing the positive social impact of culture in the city;
- The Factory Project and the transformation of St John's offered a strategic opportunity to create and attract over 6,000 jobs to the city with new technological, digital and creative businesses attracted by the facilities, the high quality public realm and the wider place-making benefits being developed in St John's;
- The existing total Capital Budget for The Factory construction was £111.65 million;
- The Council had previously committed £21.6million to the capital costs of the project;
- £78.05million had been secured from HM Treasury, following the approval of the 5-case business case in January 2017 and the project had also secured stage one approval for a £7million Arts Lottery Grant in June 2017;

- The original budget was set in 2015, based on benchmark costs, to secure government funding packages. This was prior to any detailed site investigations or design work;
- A review of all project costs and potential risks to bring to light any issues that may impact on costs during the construction phase had taken place and had concluded that to deliver the vision and long-term benefits to Manchester and the wider cultural ecology, the project costs needed to increase;
- During the review period serious consideration was given by the Strategic Board to reduce the size of the building as a way to achieve the original budget, however, this would have further delayed the opening date, and the amount of shrinkage required would have fundamentally undermined and devalued the integrity and concept of what The Factory would be;
- As the original budget was set in 2015, it did not take into account the higher rates of construction inflation experienced since then and land values in the City had also risen significantly during this period;
- The original project budget also did not take into account the longer design and construction periods necessitated by the complexity of the design, the unique challenges posed by the site and the need to resolve these before commencing permanent works;
- As such, budget increase of £18.97million, funded by capital receipts and a Manchester Mortgage Corporation dividend, providing a total capital budget of £130.62million was proposed;
- A virement of £4.3million from the Sustaining Key Initiatives Capital Budget was also requested to fund £1.286million land acquisition costs;
- To date over 90% cost certainty has been reached; and
- A fundraising committee has been established, chaired by Sir Howard Bernstein, with a target of raising a minimum £5 million to support the increase in capital costs

The Committee had been invited to comment on the report prior to its submission to the Executive on 14 November 2018.

Some of the key points that arose from the Committees discussions were:-

- The Committee expressed concern that the projected costs now proposed, to be incurred by the Council, were to almost double, especially at a time where the Council was required to be making savings across departments and services and the message this would give to Manchester residents;
- There was strong reluctance by all Committee Members to support this additional increase being met through an increase in the use of capital receipts and it was questioned as to why the increase in costs could not be met through prudential borrowing instead;
- It was felt that the proposal to sell Council land assets to meet this increase was not a 'no cost' solution, but rather a lost opportunity as the Council would be unable to use these receipts for other projects and it was questioned why the majority of this additional funding was coming from the sale of Council land assets;

- Members felt that it was difficult to support the proposed increase being met from the sale of Council land assets without being advised of where these assets were located;
- Clarification was sought as to why HM Treasury and Arts Council England were not part funding this additional increase in costs;
- Had the Business Plan agreed in 2017 changed following the increase in costs;
- What was the original and current budget contingency for the Factory project and was it felt that this was at an adequate level;
- Had the cost element associated to the public realm aspect of the project increased and was this cost factored into the overall cost of the project;
- Given that the Council was now being asked to agree an increase in costs, it was questioned whether it had been appropriate for preparatory work to take place;
- There was dissatisfaction from Members that at the time the original budget was set, a detailed acoustic solution was not in place and now to fully satisfy these requirements a further £4.5million to the cost of the project was required;
- Clarification was sought as to the number of FTE opportunities the project would provide as there was a marked discrepancy between the level originally projected and the figures now reported;
- There was a need to understand what Social Value would be delivered from the project; and
- Concern was expressed that the progress of the Factory project had not received regular Scrutiny and that going forward this Committee should receive quarterly updates on its progress against agreed costs.

The Leader commented that the situation now before the Council was not ideal and acknowledged that it did not portray a good picture to Manchester residents. He advised that consideration had been given to scaling the project back, value engineering and even scrapping the project completely but these options would have taken away some of the projects purpose, putting grant funding from central government at risk, not delivered sufficient savings in the budget to make it deliverable and to axe the plans altogether would have still incurred costs to the Council in the region of £23million, with little left to show for it but an empty piece of land.

The Leader advised that if the Committee were minded to recommend that the Executive considered meeting the costs through prudential borrowing, then this would be given appropriate consideration. This was supported by the Executive Member for Finance and Human Resources who added that revenue implications would also need to be taken into consideration if the Council was to borrow any monies.

The Leader provided some reassurance to the Committee that the Council was in a financial position to carry the increase in cost within existing budgets for some time which would ultimately be offset through capital receipts. He added that the Council was prohibited from selling its assets to fund the delivery of services. He also explained that it was not possible at this stage to provide details of which assets were earmarked for sale due to commercial confidentiality, but clarified that the Council was not intending on disposing of any assets that were not already earmarked for disposal.

The Leader advised that as part of the original agreement, the Council had secured £78million funding from HM Treasury and a £7million Arts Lottery Grant from Arts Council England towards the project. Both of these were set amounts. All additional funding, including any increases would have to be met by the Council.

The City Treasurer advised that the increase in costs had had no material impact on the business plan and agreed that the 5 case Business Plan could be shared with Committee Members. The Committee was also informed that the original contingency budget for the project was £6.5million which had now reduced to £5.8million, equivalent to 5% of the total cost, which was not an unreasonable level for a development of this scale.

The Director of Capital Programmes advised that the costs associated to the Public Realm aspect of the project had not increased and were included in the total increased costs. He also advised that in terms of increased costs associated to acoustic works, due to the scale of the project, detailed design had to be developed over time which had resulted in unprecedented acoustic treatments being required.

In relation to the delivery of FTE opportunities, the City Treasurer agreed to share information with the Committee on the projected GVA and job creation over the 10 year assessment period. She also suggested taking a report through the Ethical Procurement and Contract Management Sub Group on the delivery of Social Value from the project.

## **Decision**

The Committee:-

- (1) Recommends that the Executive consider meeting the additional costs of the project through prudential borrowing rather than through increasing the capital budget;
- (2) Agrees that the Ethical Procurement and Contract Management Sub Group receive a report on the delivery of Social Value from the Factory Project;
- (3) Agrees that the Committee receives quarterly updates on the progress of the project against agreed costs;
- (4) Requests the City Treasurer to provide Committee Members with a copy of the 5 case Business Plan;
- (5) Requests that Officers arrange a site visit for the Committee to the Factory Project at an appropriate time; and
- (6) Requests that Officers submit a report to the next meeting of the Committee on all the Council's capital projects that are valued over £10million detailing the original costs agreed, current spend and anticipated final spend for each project.

## **RGSC/18/59 Annual S106 Monitoring Report**

The Committee considered a report of the Head of Planning, Building Control and Licensing, which provided information on the 2017/18 financial year's activity in relation to S106 Agreements and specifically on associated financial obligations. The

report also set out the legislative framework for negotiating S106 agreements, and updates on the Community Infrastructure Levy (CIL) and viability assessments.

The Head of Planning, Building Control and Licensing referred to the main points and themes within the report, which included:-

- During 2017/18 year, 19 S106 agreements were signed. Of these 5 related to deeds of variation of previously signed agreements as the associated schemes had been subject to amendment;
- During the same period £999,895 was received following triggers being met from existing agreements;
- No refunds had been made during this period in relation to any financial obligation, however, there were two cases where the financial obligation was now required and these were being pursued.
- There was currently £6million held through received S106 contributions. Of this around £550,000 was awaiting to be reserved to projects;
- Details of income received against principle areas of spend since 2015/16;
- Since the concept of 'viability' was introduced into the NPPF, developers had sought to use viability assessments to help demonstrate why certain S106 requirements would make a scheme economically unviable;
- Viability assessments now played an important part in the planning process, however, as developers had submitted information on a confidential basis due to commercially sensitive information, assessments had until very recently not been in the public domain;
- Where a viability assessment supported a contribution through the S106 process, agreements would now include a reconciliation clause requiring a further viability test. This would allow the Council to share in any uplift and for this to increase the contributions from the original obligation; and
- The Council continued to not implement CIL in Manchester at the current time due to the concerns the approach could have on development in the wake of the down turn in the economy. It was also considered that a review of CIL and its impact should take place alongside that of the local plan (the Core Strategy).

The report also contained a breakdown of S106 agreements on a ward by ward basis.

Some of the key points that arose during the Committees discussions were:-

- There appeared to be little progress made with the delivery of S106 agreements from last year's report and what could be done to ensure developers were delivering their agreed requirements;
- Why had neighbouring Local Authorities outperformed Manchester in S106 income received given the volume of development in Manchester;
- Was a 17% level of affordable housing in the Piccadilly Ward deemed an appropriate level;
- Was it possible for further S106 income to be spent on alleygating schemes;
- What progress had been made following the Council motion in March 2018 to require developers to provide greater transparency of viability assessments in relation to affordable housing;

- Could there be an update on the proposed new supplementary planning document (SPD) in relation to viability assessments;
- Had the increase in land values had an impact on S16 arrangements
- Concern was expressed about the level of communication with Ward Members in relation to S106 proposals within their respective wards;
- How did the Council pursue S106 monies owed;
- As Manchester City Council and Salford Council shared legal services, was the legal advice provide to both Authorities consistent; and
- With the increasing levels of residential dwellings in the city centre, it was suggested that there was a need to reconsider the introduction of CIL especially for developments within the City Centre.

The Head of Planning, Building Control and Licensing advised that the Council only received S106 monies when certain triggers had been met. She acknowledged the views that there appeared to have been little progress made and provided reassurance that a number of schemes were fully committed to and were currently being progressed by the Council.

The Strategic Director (Development) commented that there was a need to strengthen the internal governance of monies received form S106 agreements which would be undertaken by the Capital Strategy Board and that once this was in place it would be appropriate for scrutiny to review the delivery and spend of S106 funding.

The Head of Planning, Building Control and Licensing advised that it was not possible to give a precise reason as to why neighbouring authorities may have outperformed Manchester in terms of S106 income as there would be a number of factors, such as the size of application that would need to be taken into consideration. When comparing performance to other core cities, the Council was performing at a similar level. In terms of the level of affordable housing in the Piccadilly Ward, she explained that it would not be appropriate to comment on this so not to pre-judge any planning applications or viability assessments. In relation to National Planning Policy Framework (NPPF), the guidance set a level of 20% affordable housing from major developments.

In terms of further alleygating schemes from S106 funding, it was reported that this would be dependent on whether any proposed scheme intended to mitigate the risk of harm.

The Head of Planning, Building Control and Licensing reported that viability assessments that had been previously received were now in the public domain and were a requirement of all future major planning applications which would be submitted on the basis that they would be publically available. Any applicant could still request that the Council did not disclose information on the basis that disclosure would adversely affect the confidentiality of commercial information which protected a legitimate economic interest, however, this should be the exception and not the norm. It was also confirmed that the Council intended to move forward with the production of a new SPD to enable the Council to set out a new approach to the assessment of viability and the procedures to follow.

It was reported that the Council had reconciled its land values prior to the requirements within the NPPF and as such this did not pose a challenge or risk to the Council. It was hoped that discussion with Ward Members around S106 monies had improved and this was now discussed at each Ward Co-ordination meeting. If Members still had issues around communication Officers requested that they be notified in order to address.

The Committee was advised that the Council wrote to developers that owed S106 funding and if this resulted in no response, then the Council's Legal Team became involved alongside the Council's Debt Recovery team. It was also reported that the legal advice provided to both Manchester City Council and Salford Council was consistent.

## **Decision**

The Committee:-

- (1) Notes the report; and
- (2) Requests a future report on S106 that covers the following:-
  - The governance arrangements in the delivery of S106 agreements;
  - Progress made following the Council motion passed in March 2018 on Transparent Viability Assessments;
  - Practical examples of the delivery and spend of S106 funding
  - The structure of consultation with Ward Councillors; and
  - Consideration of the use of CIL within the City Centre

## **RGSC/18/60 Civic Quarter Heat Network - update**

The Committee considered a report of the Strategic Director (Development), which provided an update on the progress of the Manchester Civic Quarter Heat Network project (the "CQHN") and the actions required to enable contract closure and commencement of the construction phase.

The Strategic Director (Development) briefly referred to the main points and themes within the report.

The Committee expressed their satisfaction with the proposals within the project

## **Decision**

The Committee notes:-

- (1) the progress that has been made to date;
- (2) the delegations agreed at the Executive meeting of 21 March 2018
- (3) the remaining actions required to enable contract closure and construction and operation to commence as agreed and delegated at the Executive of 21 March 2018; and
- (4) that the actions are targeted for completion in November with the aim of entering into contract with Vital Energi in December.

## **RGSC/18/61 Annual Property Report**

The Committee considered a report of the Strategic Director (Development), which informed Members of property activity from April 2017 until March 2018. The report also reviewed activity in Development and Investment, the Heritage Estate and the Operational Estate. In line with the request of the Neighbourhoods Scrutiny Committee in October 2015, the report also provided information about the strategy and initiatives to bring Heritage buildings back in to use.

The Head of Corporate Estate and Facilities referred to the main points and themes within the report, which included:-

- The delivery and operation of the Council' Digital assets which included The Sharp Project, Space Studios Manchester and One Central Park;
- The on-going development of Manchester Airport and Enterprise Zone;
- The development of City Centre schemes involving Council assets which included Spinning fields, First Street, Jacksons Row/Bootle Street, St Johns, Heron House and Mayfield Regeneration Area;
- Work with Strategic Housing, Planning and other partners to deliver the Council's objectives for Housing;
- Involvement in a range of initiatives to improve the quality and offer in district centres;
- Property input in relation to leisure, sport and education provision;
- The management of a programme of strategic acquisitions
- Income from the Council's investment estate, particularly from its property interests in the Airport
- The management of the Council's non-operational (investment) estate and transactional work;
- The provision of strategic and practical advice and support to both the management and future use of historic assets, including identifying investment for their upkeep and restoration; and
- Corporate landlord overview and delivery of the 2017/18 Asset Management Programme.

Some of the key points that arose from the Committees discussions were:-

- Could Officers provide an update on the progress that had been made with the mapping exercise of assets across the city;
- Was the information available on CPAD published in real time;
- Would Councillors have access to the information on the Council's investment estate via CPAD;
- Clarification on who managed the Jacobs contract for the management of the Council's non-operational (investment) estate and transactional work and what social value was derived from this contract;
- Why did the Council not undertake regular Conservation Area Appraisals as part of its Heritage assets;
- Was it anticipated that the security demands of the Town Hall would be increased when it reopens;



- What level of affordable housing would be provided as part of the developments at Angel Meadows and Toxteth Street;
- Clarification was sought as to what was meant by the re-provision of all existing social housing tenants within the Beswick area as part of the Eastlands Regeneration Framework;
- It was commented that a total of £28.4m of capital receipts were received in the year 2017/18 yet the Council was considering selling further assets to fund the increased cost of the Factory Project;
- Had the Council secure tenants at the Space Studios development and was the asset owned by the Council; and
- Was the scheme on the former Stagecoach site fully approved.

The Strategic Director (Development) advised that the mapping exercise of all Council assets had been completed and was available for Members to inspect on CPAD. He also advised that the information on CPAD was recorded in real time and Members would have access to the Council's Investment Estate but Members would need to have regard to this information being commercially sensitive which could not be shared with third parties.

The Committee was advised that a report was scheduled for the Executive in December 2018 on the broader work of the Development Team in relation to Heritage Assets and this report would take on board the concerns raised in relation to Conservation Area Appraisals.

The Head of Corporate Estate and Facilities advised that there would be a thorough review of the security requirements at the Town Hall prior to its re-opening, but a decision had not yet been reached in relation to what the access points of the building would be.

The Strategic Director (Development) advised that he would provide the Committee with details of affordable housing proposed from the developments at Angel Meadows and Toxteth Street outside of the meeting. He explained that in terms of the re-provision of existing social housing tenants, One Manchester was still developing its proposals for this, but in essence, this would result in some residents being given the opportunity to relocate into newer properties.

The Strategic Director (Development) confirmed that tenants had been secured for the Space Studios development and the Council solely owned the asset. He further added that the scheme proposed for the former Stagecoach site had been fully approved and would commence soon.

## **Decision**

The Committee:-

- (1) Notes the report;
- (2) Requests that Scrutiny Committee is sighted on any report in relation to the proposals surrounding the re-provision of existing social housing tenants within the Beswick area as part of the Eastlands Regeneration Framework; and

- (3) Requests that Officers provide information on the Social Value aspect of the Jacobs contract to member of the resources and Governance Scrutiny Committee and the Ethical Procurement and Contract Management Sub Group.

### **RGSC/18/62 Appointment to the Ethical Procurement and Contract Monitoring Sub Group**

The Committee was asked to agree that Councillor Reid be appointed to the Ethical Procurement and Contract Management Sub Group.

#### **Decision**

The Committee agrees that Councillor Reid is appointed to the Ethical Procurement and Contract Management Sub Group

### **RGSC/18/63 Overview Report**

The Committee considered a report of the Governance and Scrutiny Support Unit which contained key decisions within the Committee's remit and responses to previous recommendations was submitted for comment. Members were also invited to agree the Committee's future work programme.

A request was made that either an update be provided at the next meeting in relation to the Outstanding Recommendation from the Committee's meeting in January 2018 or if an update was not possible, that this item be removed to the list of Outstanding Recommendations.

#### **Decision**

The Committee

- (1) Notes the report; and
- (2) Agrees the future work programmes of the Committee for the remainder of the Municipal Year.