

<b>Committee/Meeting:</b> Cabinet	<b>Date:</b> 8 September 2010	<b>Classification:</b> Unrestricted	<b>Report No:</b>
<b>Report of:</b> Corporate Director Development and Renewal  <b>Originating officer(s)</b> Andy Algar Service Head, Asset Management		<b>Title:</b> Poplar Baths – proposed procurement route  <b>Wards Affected:</b> Limehouse	

<b>Lead Member</b>	Cllr Jones, Culture and Creative Industries
<b>Community Plan Theme</b>	A great place to live
<b>Strategic Priority</b>	Strengthening and connecting communities by ensuring communities have good access to a full range of facilities - including health services, schools and leisure

1. **SUMMARY**

- 1.1 This report details sets out details of the proposed procurement route to seek tenders for the refurbishment of Poplar Baths

2. **DECISIONS REQUIRED**

Cabinet is recommended to:-

- 2.1 Approve the proposed procurement route and authorise the Corporate Director, Development and Renewal to commence the process to invite developers/contractors to express an interest in the scheme by completing a pre qualification questionnaire.
- 2.2 Note the capital funding requirement and the fact that the procurement process cannot proceed to shortlist phase without funding being in place.
- 2.3 Instruct the Corporate Director, Development and Renewal to explore the scope for the capital receipt from any enabling development on Housing Revenue Account land being used to support this scheme.

### **3. REASONS FOR THE DECISIONS**

- 3.1 To enable progress to be made on the procurement of a developer/contractor to provide new leisure facilities on the Poplar Baths site.

### **4. ALTERNATIVE OPTIONS**

- 4.1 Cabinet has previously decided to pursue a proposal to bring the baths back into use.

### **5. BACKGROUND**

- 5.1 In March 2010 Cabinet agreed a proposal to pursue design work on a new baths to what is known as Design Stage D - this is defined as "*Development of concept design to include structural and building services systems, updated outline specifications and cost plan*". It is a precursor to be able to finalise a full specification to enable works to be formally tendered. The costs of this initial design work was estimated at £516,000
- 5.2 These costs excluded any design work for the proposed enabling development.
- 5.3 Officers have reviewed possible options for the delivery of the scheme and are proposing an alternative procurement route which will significantly reduce up front revenue costs and also enable developers/contractors more scope to innovate in both design and driving value via any enabling development. The revised procurement route will not alter the overall timescale.

### **6. BODY OF REPORT**

- 6.1 The previous report highlighted the costs of taking the design forward and also the risks of these costs potentially being required to be funded from mainstream revenue in the event of the scheme not proceeding for any reason. There is also a requirement to find funding for the design of the enabling development. Given the worsening financial climate officers decided to review options for design to establish whether the same outcomes could be achieved without the same level of up front revenue exposure
- 6.2 An alternative procurement route is being suggested – this will reduce up front revenue costs and should encourage innovation from contractors/developers (as they will seek competitive advantage to make the lowest bid for the works) but still gives the Council significant influence over final design.

- 6.3 It is suggested that the following procurement route is adopted (the Council is working on a similar basis with Poplar HARCA on the proposed regeneration of Chrisp Street market). The main difference is that the Council does not do detailed design work itself but sets out an initial broad specification for contractors/developers to work against.
- 6.4 The revised process is summarised below
- Procure and appoint advisory team for procurement process
  - Commence OJEU procurement process for developer/contractor.
  - Stage 1 developer selection (based on financial and technical issues including design quality/track record).
  - Short listed developers asked submit a response to the Invitation to Tender which will include firming up design proposals and bids
  - Preferred developer selected
  - Contract completed
  - Detailed design concluded and agreed
  - Commencement of works
- 6.5 The previous Cabinet report suggested the new facilities could be opened in 2013/14 and this revised works to the same timescale so no time is lost.
- 6.6 The Council will be unable to go beyond Stage 1 developer selection unless committed capital funding is in place. Therefore, capital will need to be allocated as part of the budget setting process for 2011/12 onwards.
- 6.7 The previous report identified that this proposal has a significant capital requirement that can only be partially offset by possible enabling development. Depending on the option selected the council capital funding needed for the redevelopment of Poplar Baths will range between £7.1m and £16.6m. These figures would need to be adjusted to reflect building cost inflation.
- 6.8 The earlier decision agreed that part of the enabling development (i.e. residential development to off-set scheme costs) occurs on land that is currently held by the Housing Revenue Account (HRA). There are restrictions on what HRA capital receipts can be spent on and officers will need to explore the financial and legal issues around this. If this cannot be resolved then the capital cost of the scheme will increase.

## **7. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 7.1 Further to Cabinet's consideration of the 'Poplar Baths Development Plans' report on 10 March 2010, this report seeks approval for a proposed procurement route to seek tenders for the refurbishment.
- 7.2 Capital cost implications of the proposal were detailed in the previous report to Members and indicated that the cost of the redevelopment of the facility will range between £7.1m and £16.6m, dependent upon the option to be pursued and the results of detailed design work required to address risks associated with the project. These estimates are based on current prices and are therefore subject to market fluctuations (see paragraph 6.4). Progressing the scheme beyond RIBA Design Stage D will depend upon a financially affordable solution being identified, including funding from the Council.
- 7.3 An option that has been proposed to provide funding towards the scheme is that the project will be partly financed from the application of capital receipts realised from the development of Housing Revenue Account land. Under the present arrangements only 25% of the capital receipt from a dwelling or 50% from housing land can be used for general capital purposes. The remainder of the capital receipts are pooled and paid to the Government.
- 7.4 Cabinet in March resolved that officers be directed to allocate sufficient resources from available developer contributions to cover the costs of the Poplar Baths restoration and leisure centre scheme development to RIBA (Royal Institute of British Architects) Design State D; Funding for the initial work to manage the procurement process will be considered at a meeting of the Planning Contribution Overview Panel in August and an update will be provided at the Cabinet meeting. If a capital budget for the development is approved in future, then all procurement and project management costs associated with the scheme must be incorporated.
- 7.5 Members should be aware that if the Poplar Baths project were not to move beyond the design stage, developer contributions will have contributed to the design only, with no resulting facilities improvement. As a consequence, there is a risk that at that stage, developers might wish to request repayment of contributions made.
- 7.6 The initial design contract must only be let with the full support and involvement of the Authority's procurement and legal teams, and it is essential that the Authority does not commit itself to any funding beyond this initial stage.
- 7.7 Once the design process is complete further reports must be submitted to Cabinet to enable Members to take a fully informed decision before any formal commitment can be made to incurring further expenditure on capital works.

- 7.8 The revenue implications of the project must be considered in any future reports. These costs have not been factored into the Council's medium term financial strategy and as a consequence options to identify necessary funding would need to be determined.

## **8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 8.1 Section 3 of the Local Government Act 1999 requires best value authorities, including the Council, to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness"
- 8.2 The procurement procedure described above complies with EU and UK law and the Council's procurement procedures. It is open for Cabinet to conclude that the proposed procurement plan will result in best value having regard to the duty outlined above. As the procurement is a two stage process the Council can begin work on the project, examine the developers' proposals and then identify the capital resources necessary to complete the project.
- 8.3 As it is likely the development scheme will involve a transfer of an interest in the land in any pre-contract discussions, officers will need to have regard to the power in section 123 of the Local Government Act 1972 for the Council to dispose of land and the need to get the best consideration reasonably obtainable unless the Secretary of State consents to the disposal. Officers will have to examine any proposal and take legal advice to ensure that it complies with the public procurement regulations. There is an exemption for straightforward disposals of land, but care will need to be taken with any proposal that involves development of the site. Any development project worth over £3.5 million is subject to the EU public procurement regulations.

## **9. ONE TOWER HAMLETS CONSIDERATIONS**

- 9.1 It is a priority of the Council through the Leisure Facilities Strategy and the Local Development Framework to ensure continued access to indoor sports facilities to all sections of the community. As such this report is consistent with the Council's duties to promote equality in the areas of race, gender and disability

## **10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 10.1 Leisure facilities by their very nature have high energy demands. The Leisure Facilities Strategy identifies the need to reduce the carbon emissions from the Council's leisure facilities wherever possible. Any specification for bringing Poplar Baths back into use will include measures which seek to maximise energy efficiency within the constraints of the listing and the cost envelope of the scheme.

## **11. RISK MANAGEMENT IMPLICATIONS**

- 11.1 A risk register is attached as Appendix 1. These risks will be managed as part of the project management process.

## **12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 12.1 Poplar Baths are located in a prime location within the Chrisp Street town centre and adjacent to a busy Docklands Light Railway station. The redevelopment of a building which is currently boarded up is likely to have a positive impact on perceptions of personal safety. A re-opened leisure centre in this location would provide an active frontage and passive surveillance of the southern side of East India Dock Road.
- 12.2 Research commissioned by Sport England has found that appropriately designed sports activities and facilities can reduce the likelihood of people participating in crime or anti-social behaviour. It does so by addressing some of the factors that increase the risk of offending, and by strengthening some of the protective factors that reduce the likelihood of crime.

## **13. EFFICIENCY STATEMENT**

- 13.1 The Leisure Facilities Strategy requires that any detailed proposals must take into account the following key efficiency criteria
- Wherever possible wet and dry facilities should be brought together as this reduces the subsidy requirement and allows the Council to potentially benefit from profit share arrangements embedded in the leisure management contract.
  - Facilities should be located in the most accessible locations to benefit from high footfall and generate the highest possible use of facilities, ensuring reduced cost per visit and potential increases in income for future investment.
- 13.2 Controlling energy costs must be a key consideration for all investment in new leisure facilities. Improving energy efficiency will in turn benefit the Council through the leisure management contract surplus share arrangements with its current contractor.

## **14. APPENDICES**

Appendix 1 – Risk Register

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Brief description of "background papers"

Name and telephone number of holder  
and address where open to inspection.

**None**

**N/A**