



## Report of the Leader and Cabinet Member for Economy and Strategy

Special Cabinet - 27 April 2020

### **Financial Procedure Rule 19.1c and FPR7. Authorisation for Alteration and Conversion of Bay Studios, Fabian Way, Swansea into an 1000 Bed Surge Hospital on Behalf of the Swansea Bay University Health Board**

<b>Reason for Urgency:</b>	Covid-19 emergency build of hospital for handover to Swansea Bay University Health Board week commencing 27 April 2020.
<b>Purpose:</b>	To enable the delivery on behalf of the Swansea Bay University Health Board of the conversion of Elba Building, Bay Studios, Fabian Way, Swansea into an 1000 bed surge hospital and to approve the project in line with FPR7 and FPR 19.1c.
<b>Policy Framework:</b>	Council Constitution:- Financial Procedure Rules FPR19.1c (emergency – danger to life) and FPR 7 Capital Programme
<b>Recommendation(s):</b>	It is recommended that:  1) The project led by the Council on behalf of Swansea Bay University Health Board to convert the Elba Building, Bay Studios into a surge hospital together with the associated financial implications is approved and added to the capital programme (to comply with FPR7 – addition to capital programme);  2) Authority is delegated to the Director of Place in conjunction with the Leader, Chief Finance Officer and Chief Legal Officer to approve the final project cost and to enter into any agreements necessary (based on the draft collaboration agreement included in Appendix A) to ensure the delivery of the project and to protect the Council's interests:  3) The Director of Place and Chief Finance Officer are authorised to recover all expenditure associated with the delivery of the project from Swansea Bay University Health Board in the first instance and if necessary from Welsh Government.

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## **1. Introduction**

- 1.1 Due to the unprecedented impact of Covid 19 on the population it is essential that additional hospital beds are provided in the event that hospitals within Swansea and Neath Port Talbot are unable to deal with any surge in admissions. Similar steps are being undertaken by other Local Authorities in the UK with Welsh Government identifying a shortage of 10,000 and Swansea Bay University Health Board identifying a requirement of a minimum of 1300 addition beds. The actual occupation as a field hospital will be dealt with by Swansea Bay University Health Board and the Council will have no liability in this regard.
- 1.2 As such the Council has been requested by The Swansea Bay University Health Board to urgently undertake on its behalf alterations and conversion works to the Bay Studios, Fabian Way, Swansea to provide a 1000+ bed surge hospital. The works have commenced on an emergency basis and will last approximately eight weeks.
- 1.3 As the project is being undertaken and managed by the Council on behalf of the Health Board, it has been agreed that the Council's Building Services Department will be appointed as Principal Contractor under a cost reimbursable NEC3 Option E contract to deliver and manage the works. The specification for and the design of the works has been undertaken by the Health Board who will be the ultimate occupiers and operators of the site.
- 1.4 Due to time constraints arising from the urgent requirement of this facility it was not possible for the Council to undertake a tendering exercise to appoint suitably experienced contractors to undertake the works and so two contractors from the South West Wales Regional Contractor's Framework 2020 (SWWRCF 2020) were approached to confirm capacity to carry out the works. These awards will be dealt with separately.

## **2. Site Identification Process**

- 2.1 Swansea Bay University Health board (SBUHB) undertook a review of the buildings within its boundaries to identify those which were suitable for conversion into a temporary hospital. This included commercial units, leisure centres, sporting facilities and industrial buildings. It is understood they applied a number factors including size and location in narrowing down their preferences and the council were advised that the selected sites were Bay Studios and Llandarcy Academy.

- 2.2 The two sites were then reviewed and approved by the Military Assessment team who have reviewed all surge Hospitals in the UK and determined as suitable for the purpose intended.
- 2.3 Whilst both these sites are located in the Neath Port Talbot area, an agreement was reached that Swansea Council would facilitate the delivery of Bay Studios and NPT would facilitate the LLandarcy site. This report therefore only deals with the former.
- 2.4 Council representatives attended the site at the request of Health Board colleagues on the 30<sup>th</sup> March and at that meeting SBUHB confirmed they wished to proceed with the conversion and fit out of The Elba Block at Bay Studio's. This was subsequently confirmed in writing to SBUHB and recorded in the formal Council Health Board strategic meetings. The building chosen has been unused for a considerable period of time since operating as a former industrial unit and has had limited investment over this time. SBUHB however confirmed it was of a scale that fitted their proposed operating model for Surge Hospitals. This would however have an impact on the overall cost of the project
- 2.5 To enable speed of delivery the Council has taken on the role of principal contractor and two contractors from the South West Wales Regional Contractor's Framework 2020 (SWWRCF 2020) were approached to confirm capacity to carry out the works. This award is dealt with under separate cover. Works commenced on site on the 3<sup>rd</sup> April 2020. Completion is due within eight weeks which will require a period of 24/7 working including over the bank holidays which would further impact on costs.
- 2.6 The works involved include arranging new incoming electrical and water supplies, improved drainage infrastructure, roof repairs and external works. Internally the Hospital is being created by constructing a "waterproof" box within the existing structure allowing up to 1000 bed spaces to be adequately lit and heated. Electrical and mechanical heating and cooling systems are also being installed along with new flooring and structural false ceilings.
- 2.7 Due to the limited time available it has not been possible to confirm build costs but based on similar facilities elsewhere this is estimated to be between £10m and £15m. **SBUHB are aware of the likely cost of up to £15m which will be recovered from SBUHB as this work has been undertaken on their behalf.** The agreement will be documented via a Collaboration Agreement a draft of which is included in appendix A.
- 2.8 The Council was originally proceeding on the basis of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2020 which came into force on 30/3/20 which stipulated that the Council could undertake permitted development with the aim of reducing controlling or mitigating the effects of an emergency on land it owns, leases, occupies or maintains and officers were negotiating with all the parties (the Health Board, Roy Thomas, Welsh Government and UWSTD) to achieve the required legal position. This changed on 10/4/20 with the introduction of the Town and Country Planning (General Permitted Development)(Amendment) (No.2) (Wales) Order

2020 which authorises permitted development by or on behalf of a NHS body and does require the Council to have any interest in the land. This has resulted in a delay in negotiating the final agreement between the parties as each party has had to agree and adopt different roles and responsibilities.

- 2.9 An early start on site was required and this was undertaken by the contractors operating on Letters of Intent containing provisions to protect the Council until such time as the specification from the Health Board was clarified and captured in formal contracts.

### **3. Finance Implications**

- 3.1 Due to the nature of the project a fixed cost has not been possible but given the scale of the project and condition of the existing asset the estimated cost is between £10m and £15m. Full costs of construction and any future maintenance requirements will be expected to be fully recovered from the SBUHB.
- 3.2 There is no current provision for this item within the capital programme. It will be added to the programme as an emergency triggered by the Covid 19 response and will be financed temporarily in-year by releasing sums from the capital equalisation reserve to enable a revenue contribution to capital. It is intended that once the repayment is made by SBUHB this would be reversed and substituted during the 20/21 financial year. This addresses the requirement to identify an immediate funding source under FPR7 - capital programme - and enables emergency provision – FPR19 emergency - for the aversion and mitigation of the imminent risk to loss of life.
- 3.3 All efforts will be made to secure full reimbursement directly from SBUHB and secondarily from Welsh Government through its existing £30m Covid 19 grant scheme, the £40m social care hardship fund, under the Emergency Financial Assistance Scheme which Swansea has already triggered via the s151 Officer, or any other subsequent offers of help from Welsh Government including an anticipated share of the now £95m Barnett consequential for Welsh local government. Ultimately if these commitments are not met by SBUHB or Welsh Government as they are not wholly guaranteed at point of decision and whilst highly improbable if the Council fails to recover the whole sums then any residual amount may have to be met instead by additional unsupported borrowing which would fall on local taxpayers for the duration of any loan. That would be a very much last resort option but provides a guaranteed technical funding solution in utter extremis to provide full resource cover to enable Cabinet to make the decision in this report.

### **4. Legal Implications**

- 4.1 The site is owned by Welsh Government and leased to Roy Thomas with the University of Wales Trinity St David's also having an interest in part the land. All parties are agreeable to its temporary use as a surge hospital. A 12 month lease is being agreed between Roy Thomas, Welsh Government and SBUHB (the parties) with a licence to be granted to Swansea Council for the duration of the works only. The lease will also include the requirement to reinstate the building

back to its former use although the cost of this is not included within this report as this will be a matter for the parties once the lease expires.

- 4.2 This report is recommending that delegated powers are given to the Director of Place in conjunction with the Leader, the Chief Finance Officer and the Chief Legal Officer to finalise the appropriate terms of the transactions with any agreement documented accordingly.
- 4.3 The alteration and conversion of Bay Studios to accommodate a surge hospital is classed as Permitted Development pursuant to the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2020. This allows development for the purpose of preventing, controlling or mitigating the effects of, or taking other action in connection with a public health emergency in the UK consisting of a change in the use of a building or land to a use falling within Class C2 or D1 and the provision on land of buildings, moveable structures, works, plant or machinery. The development must be taken by or on behalf of an NHS body. Where the developer is not the local planning authority the developer must notify the local planning authority of the development. The Director of Place formally notified Neath Port Talbot County Borough Council, as the relevant planning authority on the 31<sup>st</sup> March and this was acknowledged on the 1<sup>st</sup> April. The permitted development is permitted for a period of 12 months and the buildings or land must then be restored to its previous condition or to such other state as may be agreed in writing between the developer and the local planning authority.
- 4.4 As far as the insurance position is concerned the contractors on site will maintain their usual sub-contractor insurances and it is proposed that the Council as principal contractor will procure principal contractors all risks and third party insurance along with Welsh Government and Roy Thomas as joint policy holders for the duration of the contracted works to build the hospital. At practical completion, insurance responsibilities shall revert to The Welsh Government, Roy Thomas and The Health Board as below:
- The existing buildings insurance of Welsh Government and Roy Thomas will resume buildings insurance cover, having notified their insurers of additions to the building.
  - The Health Board provides appropriate insurances in respect of contents, public liability/third party, employer's liability etc. as occupier and operator of the hospital. Roy Thomas will maintain appropriate insurance cover for the wider estate outside of the boundaries of the site for the proposed hospital.
- 4.5 As referred to in the report the Council has commissioned contactors to assist in the delivery of the scheme and these will be appointed using the NEC3 Engineering and Construction Contract Option E: cost reimbursable contract, under which the works will be carried out. The contractual liabilities/obligations will be covered by the contract documentation and the award report dealt with separately.

## **5. Equalities Implications**

- 5.1 The Council must ensure that it complies with its Public Sector Equality Duty. Due to the urgent nature of the works involved no Equality Impact Assessment has been carried out. However Welsh Government has specifically introduced emergency powers to allow Councils to carry out temporary building and make changes of use of existing buildings for public health emergency purposes.

**Background papers: None**

**Appendices:** Appendix A - Draft Collaboration Agreement