



Report of the Cabinet Member for Economy, Finance & Strategy

Cabinet – 15 July 2021

Shaping Swansea – Appointment of Development Partner

Purpose:	To approve the appointment of the Preferred Development Partner following an OJEU competitive dialogue procurement process.
Policy Framework:	Swansea Central Area Regeneration Framework, Local Development Plan, Well-being and Future Generations (Wales) Act, Contract Procedure Rules and Public Contract Regulations 2015
Consultation:	Access to Services, Finance, Legal, Procurement, Property Services.
Recommendation(s):	<p>It is recommended that Cabinet:</p> <ol style="list-style-type: none">1) Approve the appointment of the preferred bidder as the Strategic Sites Development Partner.2) Approve the commencement of legal negotiations with the preferred bidder to develop the final terms of the Strategic Partnership Agreement (SPA), based on the detailed Heads of Terms concluded during the procurement process.3) Delegate authority to the Director of Place and the Chief Legal Officer to approve the final terms of the SPA and any supporting material and to enter into the SPA, subject to such approval.4) Delegate authority to the Director of Place, in consultation with the Chief Legal Officer and the Chief Finance Officer to approve completion of the Stage 1 process. The granting of a 6 month period of exclusivity to the preferred bidder on completion of Stage 1 is approved on the understanding that a further report will be presented to Cabinet for the approval of Stage 2. This report will set out the updated financial position of the preferred bidder.

Report Author:	Huw Mowbray
Finance Officer:	Ben Smith
Legal Officers:	Pamela Milford, Deb Smith
Access to Services Officer:	Rhian Millar

1. Introduction

- 1.1 The Council has defined a regeneration strategy for Swansea city centre, and its wider area, the key aims of which are set out in 1.8. The implementation of this strategy is already underway through the delivery of Copr Bay, 71-72 Kingsway and Kingsway public realm projects which are being delivered by the Council and its partners. The Council's preference is for subsequent development projects to be delivered by the private sector as far as possible in order to transfer development risk away from the public sector and also to benefit from its expertise and resource.
- 1.2 The Council, through a competitive dialogue procurement procedure, is seeking to procure a suitably qualified development partner to support the sustainable regeneration of Swansea through the development of its strategic sites over a term of up to 20 years. On the 21st November 2019, Cabinet approved the commissioning process for the selection of the development partner.
- 1.3 A multi sited approach to partnering with the private sector, as opposed to a project specific approach, was proposed as the best solution in order to enable the implementation of the strategy as a whole and to allow for one development project to assist in the delivery of another development project where there is a relationship between sites.
- 1.4 The seven Strategic Sites that form part of this procurement process are listed below and are outlined on the plan attached at Appendix A. The sites were selected to demonstrate to the development market the scale and quality of the opportunity, in order to receive maximum interest.
- **Civic Centre:** this significant site lies on Swansea's seafront southwest of the city centre with expansive views over Swansea Bay. The intention is for the Council's offices to be relocated to the public sector hub within the Swansea Central North development, and for this site to be redeveloped as an exemplary residential-led mixed use development.
 - **Hafod Copperworks:** This site is extremely important in terms of Swansea's industrial heritage and presents an opportunity to create a major leisure destination, building on two existing projects, which both have identified operators. A concept masterplan and associated business plan have been produced to create a significant leisure destination to be delivered by the partnership, with additional future phases delivered.

- **Swansea Central North:** This mixed-use development is intended to be employment-led, comprising a public sector hub, potentially to be occupied by the Council and Welsh Government alongside other public sector tenants. A vibrant mix of uses will complement the public sector hub, which could include residential, employment, retail and/or leisure uses.
- **Oxford Street:** The site lies within the core city centre and is envisaged to become a mixed-use development.
- **St Thomas:** The Council's objective is to create a residential-led development within a high-quality environment, connecting the existing community of St Thomas to Swansea City Centre. The development will provide a key link between St Thomas and the city centre allowing a much greater level of integration than currently exists.
- **Sailbridge:** This waterfront site benefits from being adjacent to the Maritime Quarter Conservation Area and having pedestrian access crossing the site to connect to SA1 via the landmark Sail Bridge. The site would lend itself well to a mix of uses including high-quality residential development.
- **Site 9 – The Marina:** The site lies within the Maritime Quarter and is anticipated to become a high-quality residential development, with complementary commercial uses.

1.5 In addition, there will be the possibility of including additional sites by agreement between the Council and the partner to take them forward on the understanding that there will be no compromise to the Council's priority sites.

1.6 A Prior Information Notice was issued on the 10th April 2019, which supported the Council's approach to seek a partner on a multi-sited basis and the response highlighted the importance of scale to the project and the long-term nature of the partnership.

1.7 The Shaping Swansea brand and website was created (www.shapingswansea.com) and the opportunity was marketed widely with a physical event in Swansea in March 2020 and a virtual event in association with the Estates Gazette in September 2020.

1.8 The Council is looking for its partner to deliver the following key aims which are as follows:

- a) Provide high quality residential, leisure, office and commercial development;
- b) Encourage city centre living;
- c) Enhance the quality of the built environment of the City of Swansea;

- d) Create more employment opportunities and take advantage of opportunities arising from the growth of new technology, science and creative industries;
- e) Improve graduate retention rates
- f) Improve the leisure, tourism and cultural offer and infrastructure of Swansea;
- g) Encourage walking, cycling and use of public transport;
- h) Emphasise Swansea's distinctiveness and sense of place;
- i) Improve the linkages between the core city centre and the sea;
- j) Contribute towards creating a successful and sustainable Swansea, as per the Council's Corporate Plan;
- k) Deliver the Swansea Central Area Regeneration Framework and other regeneration policies.

1.9 Through the regeneration of the development sites, as with all its activities, the Partner will be required to think about the long-term objectives, working collaboratively with local people and communities and satisfy the requirements of the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016 Act.

1.10 The Council wishes to enter into a Strategic Partnership Agreement with its selected partner, which will serve as an overarching agreement and set out the core obligations and responsibilities of the Parties in the context of the Partnership. The key principles of the SPA are:

- A term of 20 years, but the agreement may be terminated earlier for non-performance, material breach or insolvency;
- Performance of the partnership will be reviewed against the objectives at regular intervals;
- Project plans will be worked up for each of the Strategic Sites in accordance with an agreed programme, and considered by Cabinet firstly at an outline level and then at a more detailed level;
- Once the Council is satisfied that there is a deliverable Project Plan for a site, this will be formalised into a site-specific agreement (SPA Project Agreement), the form of which will depend on the nature of the proposals and the delivery strategy;
- The Council and its Partner may identify and nominate additional sites for consideration as long as they contribute to meeting the objectives and delivering the outputs;
- The Council can also withdraw sites from the Partnership if a deliverable project plan is not produced within the agreed timescales, or if it receives an unsolicited offer from a third party that also meets the objectives. The Partner would have the opportunity to match any unsolicited offer.
- There is no commitment to funding from the Council under the SPA, as this will apply at the SPA Project Agreement stage;
- No guarantees are provided by the Partner under the SPA, as again this will apply at the SPA Project Agreement stage.

2 Overview of the Procurement Process

2.1 The Council undertook a competitive dialogue process in accordance with the Public Contract Regulations (PCR) 2015, as follows:

2.2 Stage 1 – Selection Stage

2.3 Stage 1 of the process commenced with the issue of a Contract Notice (2020/S 178-431048) in the Official Journal to the European Union (OJEU) on 11th September 2020.

2.4 Potential bidders responding to the notice were required to complete a Selection Questionnaire (SQ). The purpose of the SQ was to allow the Council's Evaluation Panel to assess the economic and financial standing, and technical and professional ability of bidders which had responded to the contract notice.

2.5 Completed questionnaires were evaluated by the Council with assistance from appointed external advisors.

2.6 Seven completed Selection Questionnaires was received by the return date of 12:00 noon on 21st October 2020,

2.7 The shortlist comprised of the four bidders that had passed the preliminary disqualification and compliance check, the pass/fail assessment and who had been awarded the highest marks in accordance with the pre-determined scoring system.

2.8 The shortlisted bidders were invited to progress to the next stage of the procurement process.

3 Stage 2 – Dialogue Stage

3.1 The selected bidders were issued with an Invitation to Tender (ITT). This included the requirements for the dialogue stage, a set of draft heads of terms for the SPA and the Council's detailed objectives and evaluation criteria for awarding the contract.

3.2 This stage of the process was designed to enable the Council to engage in productive dialogue with the shortlisted bidders with the aim of identifying solutions that would satisfy the Council's objectives.

3.3 The selected bidders were invited to submit their proposals for three of the seven Strategic Sites, referred to as the Initial Sites, which are St Thomas, Civic Centre and Swansea Central North.

3.4 Bidders were required to identify how they will achieve the Social Value targets and outline this within a specific Community Benefits method statement. Completion of this method statement allowed the Council to clarify the benefits to be achieved, how the bidders propose to deliver the

benefits and will also form the basis for monitoring, measuring and reporting throughout the delivery of the project.

- 3.5 In order to address the issues of poverty, inactivity and social exclusion the “Beyond Bricks and Mortar” initiative (BB&M) has been included within the process. Bidders were also required to demonstrate how they would help the Council maximise its contributions to the sustainable development principle as set out in the Well-being of Future Generations (Wales) Act 2015 and the Section 6 duty of the Environment (Wales) Act 2016.
- 3.6 The topics for dialogue sessions were initially set by the Council to ensure that all aspects of the tender response were covered and these topics are set out in the table below. The selected bidders were invited to submit their proposals for three of the seven Strategic Sites, referred to as the Initial Sites, which were St Thomas, Civic Centre and Swansea Central North, in advance of the relevant dialogue session.

Meeting No.	Topic
1	Dialogue Launch Meeting
2	Initial Response to St Thomas
3	Initial Response to Civic Centre
4	Initial Response to Swansea Central North
5	Delivery Approach and Implementation
6	Commercial
7	Partnership Agreement
8	Partnership Agreement Follow Up
9	Feedback on Draft Proposals

- 3.7 Although the dialogue topics were set by the Council, Bidders also had the opportunity to make amendments and suggest agendas beforehand to suit individual resourcing and recent progress.
- 3.8 As part of the Dialogue process, Planning, Highways, Nature Conservation and Community Benefits were consulted.
- 3.9 **Stage 3 – Final Tender & Evaluation**
- 3.10 Stage 3 commenced with the issue of the Invitation to Submit Final Tenders (ISFT), requested the submission of a tender on the basis of the solutions agreed in dialogue, which would be evaluated in accordance with the pre-disclosed evaluation criteria.

3.11 The following key areas formed the basis of the evaluation:

Main Criteria	Weighting
Section A - Delivery	25%
Section B - Concept & Quality	47.5%
Section C - Commerciality	27.5%

3.12 These were underpinned by a range of detailed criteria within a 'weighting' criteria for each area as follows:

Question	Question Heading	Weighting %
Section A – Delivery		
1	Delivery Approach and Implementation Across the Project	15%
2	Project Team and Management	10%
Section B – Concept & Quality		
3	Scheme Proposals: <ul style="list-style-type: none"> • Swansea Central North • St Thomas Site • Civic Centre Site 	15%
4	Scheme Delivery Strategies	15%
5	Scheme Financial Appraisals	7.5%
6	Well-being for Future Generations, the Environment and Biodiversity	5%
7	Community Benefits	5%
Section C – Commerciality		
8	Viability	7.5%
9	Pre-Development Funding	7.5%
10	Partnership Agreement	12.5%

3.13 Evaluation

3.14 Submissions were checked initially for compliance with the ITT and ISFT requirements and for completeness. The Final Tenders were scored by applying the pre-disclosed Evaluation Scoring Methodology.

3.15 The evaluation of Final Tender was carried out by the Council's Evaluation Team (comprising representatives from across the Council and external advisors).

3.16 The Evaluation Team produced and agreed a single scoring sheet and noted relevant reasons and commentary for scores awarded.

- 3.17 The Evaluation indicated that the preferred bidder recommended for award had a Weighted Score of 85.5%.

4 Preferred Bidder's Indicative Responses

- 4.1 As part of the final tender, the preferred bidder put forward indicative responses for three of the Strategic Sites, referred to as the Initial Sites. The responses included a delivery strategy and corresponding indicative appraisals to demonstrate the deliverability of the responses.
- 4.2 Given the indicative nature of the responses, it is recognised that these will be subject to change as further due diligence is carried out and the schemes are worked up in more detail.

5 Next Stages with Shaping Swansea

- 5.1 If Cabinet appoints the preferred bidder, the detail of the Strategic Partnership Agreement will be concluded and the Council will enter into the agreement with its chosen Partner. The SPA will act as an umbrella agreement between the Council and the Partner, setting out the governance and project approval process for the long term partnership.
- 5.2 The Council is keen to continue its regeneration programme expeditiously. All key terms of the SPA are already agreed, and outline proposals for the three Initial Sites were submitted by the Preferred Bidder at Final Tender stage, albeit with some further information required to enable Stage 1 of the two stage approval process outlined in the Heads of Terms to be concluded. It is therefore proposed that Cabinet approves a period of six months of exclusive discussions, solely with the preferred bidder, in respect of the Initial Sites from the point at which Stage 1 is reached. This will enable the Partner to progress their proposals for these three sites in parallel with concluding the SPA and progressing towards Stage 2 approval, which will require a further report to Cabinet. Work up costs for proposals will be funded entirely by the chosen Partner (at risk).
- 5.3 For all future sites, both Stage 1 (outline proposals) and Stage 2 (detailed proposals) will require formal Cabinet approval.
- 5.4 From the appointment of the Preferred Bidder the Council will need to consider how the Shaping Swansea initiative best relates to the Repurposing Study for the city centre, which the Council has commissioned, and which it is due to report to Cabinet in September. This will contain a variety of actions, including those which relate to the Swansea Central North site. Whilst flexibility is required on what is the most effective delivery strategy for this overall area, it is the current intention that responsibility for delivery of the Public Sector Hub would be transferred to the Shaping Swansea Partner, but subject to further consideration once the tenant requirements are known, including the scale of the Council's own occupational requirements.

5.5 Under the Environment (Wales) Act 2016, the Council is committed to enhancing biodiversity and ecosystems resilience through its policies, plans, programmes and projects. The Council and its preferred bidder will put in place a Sustainability Statement which will set out how Shaping Swansea will benefit from, and contribute to, the requirements of the Act.

6. Integrated Assessment Implications

6.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

6.1.1 The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

6.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

6.2 An Integrated Impact Assessment Screening has been undertaken please see Appendix G.

6.3 Going forward each site will be dealt with as separate projects and therefore we will be providing an IIA Screening Form for each along with if needed a full IIA Report. It will be then that we can provide information on individual site-specific consultations taken place, impacts identified including Socio Economic impacts, Well-being and Future Generations Act and risks identified.

- 6.4 This scheme with evolving projects is future proofing Swansea City Centre for generations to come with regards to enhancing the environment that they will be living in, providing a mix of land uses and increasing the economic position of the city.
- 6.5 The project team will ensure engagement with stakeholders at key points throughout the project by utilizing project website, target e-mails, letters, press release and social media.
- 6.6 Ongoing monitoring will be undertaken to ensure that the needs of groups identified in the IIA process are fully considered throughout the individual site projects.

7. Financial Implications

- 7.1 There are no new capital funding requests being made at this stage. Future requests will form part of separate Cabinet reports linked to individual sites as the proposals develop. This is where the bulk of capital expenditure and funding will be decided upon if those reports are approved. The risks and funding package for each site will be considered entirely separately on own merits, but within the context of the overarching Shaping Swansea strategy
- 7.2 The costs associated with entering into the SPA are already identified within the existing Shaping Swansea budget.
- 7.3 Risk is mitigated through first entering into the SPA and then assessing risk on a site by site basis at the SPA Project Agreement stage. Each site proposal will be subject to future reports to Cabinet. There is also provision for financial assessments to be undertaken on the financial bidder and/or any affiliates and any third parties who would be involved in delivering the projects as part of the approval process.
- 7.4 The principle of the partner providing Parental Company guarantees and indemnities will be set out in the SPA and suitable obligations to guarantee performance and financial covenant will be required at the point of entering into the SPA Project Agreements.

8. Legal Implications

- 8.1 The Council has undertaken a Competitive Dialogue procurement process in accordance with the Public Contracts Regulations 2015 and the Council's own Contract Procedure Rules. On award, the Council will enter into a Strategic Partnering Agreement based on the Heads of Terms. Those Heads of Terms set out the principles of the governance structure and project approval process for the term of the agreement, which is for a maximum of 20 years.

- 8.2 The Heads of Terms have been amended through the dialogue process and tender process and are commercially sensitive, but the main principles reflect the Council's preferred risk position which was issued at tender stage. Further detail is provided below:
- 8.3 The Heads provide the terms for a Strategic Partnership Agreement (SPA) which sets out the process by which the Parties will agree a series of Project Agreements enabling the regeneration of each of the Strategic Sites.
- 8.4 The Heads of Terms do not prescribe the structure and form of each Project Agreement and are sufficiently flexible to allow for all structures to be considered by the parties and approved by Cabinet as part of that process
- 8.5 The approval process for each Project Agreement involves 2 stages, outline and then detailed proposals. Each stage will require Cabinet approval. The proposals must include, amongst other aspects:
- the nature and use of the proposed development;
 - the structure of the transaction;
 - how it will meet the objectives and deliver the outputs stated in the SPA;
 - viability model and funding proposals;
 - a settled draft of the proposed SPA Project Agreement; and
 - construction contract terms.
- 8.6 Each Project Agreement will also be required to satisfy compliance with legislative requirements and relevant policies, including, but not limited to:
- The outputs sought under any grant, loan or other source of public sector financial support;
 - State aid compliance;
 - Delivering Best Consideration pursuant to section 123 of the Local Government Act 1972;
 - Compliance with the Council's policy for the well-being of future generations, the environment and bio-diversity;
 - Compliance with the Council's policy for delivering ethical employment in supply chains;
 - Compliance with the Council's policies for delivering Social Value (Community Benefits) in Swansea;
- 8.7 As described above, as part of the tender submission, outline proposals were received for the Initial Sites. The specific financial proposals included within the successful Partner's bid will be incorporated into the SPA, with any changes requiring supporting evidence by way of justification and Cabinet's further approval at its discretion.

- 8.8 The SPA will run for 20 years but includes conditional break clauses at 5 year intervals, provisions to terminate for insolvency of the Partner or after 5 years if Project Plans are not progressed for the Initial Sites in line with SPA terms.
- 8.9 On award, the Council will enter into a Strategic Partnership Agreement with the Preferred Bidder based on the Heads of Terms. No further legal agreements will be entered at this stage, specific proposals will be brought back to Cabinet in the 2 stage process outlined in paragraph 5.3 above and authority to enter into the necessary contractual arrangements will be sought at each stage.

Background Papers: None

Appendices:

- Appendix A Location Plan of the Strategic Sites
Appendix G Integrated Impact Assessment