

## LONDON BOROUGH OF WALTHAM FOREST

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| Committee/Date:   | Cabinet 24 <sup>th</sup> March 2009  |
| Title:            | Arcade site revised development proposals                                    |
| Council Priority: | Create Vibrant Town Centres  |
| Directorate:      | Finance  |
| Report of:        | Chief Executive, Director of Finance & Acting Director of Governance and Law |
| Contact:          | Andrew Kilburn   |
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| E.Mail:           | andrew.kilburn@walthamforest.gov.uk  |
| Action required:  | For Decision   |
| Wards affected:   | Walthamstow wards  |
| Appendices:       | None   |
| Status:           | Open   |

### 1. **SUMMARY**

1.1. The report to Cabinet on 16<sup>th</sup> December 2008 identified an opportunity to include leisure facilities in the development of the Arcade site, and sought approval to progress discussions with the developer. Subsequently there have been detailed negotiations and discussions with both St. Modwen, the developer, and also external legal and financial advisers. As a result of these discussions, officers are now in a position to make a series of recommendations to Cabinet to move this initiative to the next stage of development. It needs, however, to be understood that there remain significant detailed work to be undertaken prior to concluding a final proposal which it is anticipated will be submitted to Cabinet at its next meeting in April.

### 2. **RECOMMENDATIONS**

#### 2.1. For Cabinet Decision

2.1.1. Cabinet is requested to note that the location of a major leisure facility as an anchor tenant is a viable route for the development.

2.1.2. That subject to consultation, it would be appropriate to relocate the pool and other indoor facilities from the existing Pool and Track Complex to the Arcade site

2.1.3. That subject to further financial and legal advice:

- a) the current development agreement with St. Modwen provides an appropriate vehicle for progressing this scheme; and
- b) that the Council is in a position to assume responsibility as the principal funder for this development, together with the associated transfer of risk implied by this arrangement.

2.1.4. To agree to indemnify St Modwen in respect of the pre-planning legal and design work up to a maximum of £500k, to ensure the project continues to move forward rapidly. This work will be closely monitored, and approval to expenditure will be granted as work progresses.

### 3. **REASON FOR DECISION**

3.1. These are key decisions for Cabinet due the financial significance of the Arcade Project.

### 4. **PROPOSAL**

4.1. Cabinet received a report in December 2008 which advised that due to the declining financial and property markets it had become impossible for a retail-led development to proceed on the Arcade site for the foreseeable future. For this reason, other options for the development were considered.

4.2. Cabinet authorised officers to enter into negotiations with St Modwen in relation to the possibility of the inclusion of a new leisure centre in the scheme. This would provide anchorage for the site, when combined with the proposals for the inclusion of a hotel and cinema, as a leisure hub in the town centre.

4.3. Following initial discussions, a revised scheme is being considered which would involve the following revisions:

4.3.1. the Council entering into an agreement for a new leisure centre (as a replacement for the indoor facilities at Pool & Track) as part of the Arcade redevelopment;

4.3.2. the Council takes on the role of funder for the development and acquires ownership of the final development.

To ensure momentum on the revised scheme, the Council should consider agreeing to indemnify St Modwen in respect of the pre-planning legal and design work up to a maximum of £500k.

4.4. The revised scheme is subject to legal and financial viability and this work is being carried out now. A further report to Cabinet will be presented with the final revised proposal. The revised scheme will have direct implications for the leisure services provided at Pool & Track, which will also require consultation to

be undertaken by Leisure Services and later Cabinet decisions. It should be noted that any possible closure of the indoor facilities will be the result of and take place at the time of their replacement by superior, modern facilities on the Arcade site.

### **Inclusion of Leisure Provision**

- 4.5. Following Cabinet's decision in December 2008, initial design work demonstrates that a leisure centre can be provided within the scheme. The proposed centre would replace and replicate approximately the indoor facilities at Pool & Track. Cabinet should note that the recommendations are subject to a consultation process in respect of Pool & Track. The proposals do not at present involved the track facilities and a further report setting out how this will be safeguarded will be presented to Cabinet following a review by specialist consultants.

### **Funding of the Revised Scheme**

- 4.6. There are major financial implications to the revised scheme. The inclusion of a leisure facility, whilst removing the need to find commercial occupiers for retail space, would not alone enable a viable scheme of development to proceed. The investment value of the income generating elements (hotel, cinema and retail/restaurants) is unlikely to be sufficient to cover the development costs plus the level of return any developer is likely to seek. It would certainly not deliver an acceptable level of land value at present.
- 4.7. This reduces significantly the prospect of the private sector funding such a development. A reasonable estimate of the funding required for the revised scheme is approximately £35M over the life of the project (noting that the scheme is yet to be worked up in detail sufficient to obtain planning consent). It is reasonable to conclude that the private sector is unlikely to fund this type of scheme in the current financial climate and that the investment market is unlikely to recover sufficiently in the next few years.
- 4.8. It is therefore proposed that a way forward is for the Council to fund the revised scheme. If financially viable, this would be achieved through prudential borrowing which would be repaid from the following capital receipts:
  - 4.8.1. development of the existing pool site at Pool & Track;
  - 4.8.2. the housing element of the revised scheme would contain a mixture of private sale and social rented and intermediate units which could be sold to a Housing Association as the scheme proceeded. It is reasonable to say that this could reduce the borrowing requirement of £35M by 30/40%. This would be dependent on the mix and value at that time.

4.8.3. any receipt for the Arcade site itself, noting the reduced value of the revised scheme.

4.9. Upon completion of the revised scheme, as owner of the site, the Council could choose to sell the site and obtain the capital receipts described above or, as freeholder, receive the rental income from the scheme, which should provide sufficient funding to defray borrowing. This would be a decision to be made at a later date but an assessment of the affordability of this option must be made now to avoid the Council incurring borrowing that it cannot afford at a later date.

4.10. To ensure the revised scheme maintains current momentum, it is proposed that Cabinet consider agreeing to allow St Modwen to continue design work. This would be at the risk that the revised scheme is not legally or financially viable in its current form or that agreement cannot be reached with St Modwen. It will be proposed that this indemnity is capped at £500,000 and would form part of the future cost, if the scheme progresses as currently envisaged. Should the scheme not proceed, whatever costs are accrued at that stage, the indemnity could become a revenue cost to the Council.

## 5. **ALTERNATIVES CONSIDERED**

5.1. The current scheme faces the difficulties set out in this report. Officers are still considering alternatives to the revised scheme within the remit of the current procurement as part of the financial and legal assessment. If no viable scheme is possible, an unattractive alternative is to retain the empty site until the market improves.

## 6. **CONSULTATION**

6.1. Internal consultation has been with Portfolio holders, Senior Council officers and the Councils legal and financial advisors.

6.2. Public consultation on the closure and relocation of the Pool & Track facilities will be undertaken with directly affected groups. Any future planning process for the will also involve consultation with affected persons.

## 7. **IMPLICATIONS**

### 7.1. Financial

7.1.1. The Council's financial advisors (Sector) have examined an initial proposal, which potentially involves the Council underwriting the capital cost of the scheme, which at this early stage is estimated in the region of £35m. It is envisaged that this would be spread over the construction period and would be offset by receipts, some of which may be realised before final completion.

- 7.1.2. The initial costings show a scheme, which could be financed using borrowing for a limited period but this would be subject to the renegotiation. The extent of the period until major receipts are realised, the amounts and rates of any borrowing and the likely revenue consequences will need to be calculated when the scheme is worked up and timing of expenditure better able to be estimated.
- 7.1.3. There are legal considerations to be examined in respect of the position on prudential borrowing and the nature of the Councils contractual relationship with the developer.
- 7.1.4. The work required to get the scheme to a level of detail at which it can be submitted for planning approval and the financial and legal considerations addressed, is estimated to take three months A report detailing the financial and legal implications of the proposed scheme will need to come to Cabinet for approval.
- 7.1.5. At this stage in the process the costings are not accurate enough to give a reasonable degree of certainty around affordability especially as this would also be influenced by the currently volatile money markets and end values by the still depressed property market. The more detailed financial analysis on the worked up scheme will need to make explicit the risks around these key variables.
- 7.1.6. In order to progress the scheme to a stage where approval for capital expenditure can be sought requires potential revenue funding up to £0.5m. This could become a revenue cost in the event that the scheme did not progress. There is currently no budget provision for this sum, and if it became payable provision would need to be made in the appropriate financial year.

## 7.2. Legal

- 7.2.1. Under section 2 of the Local Government Act 2000 the Council has the power to do anything which it considers is likely to achieve the promotion or improvement of the economic, social and environmental well-being of its area. In exercising this power the Council must have regard to its community strategy. Creating vibrant town centres is a key part of the Sustainable Community Strategy. Any proposed scheme would be subject to planning consent but the uses of the revised scheme fall within the terms of the uses for the site and the terms of the compulsory purchase order used to acquire the site.
- 7.2.2. The Council has power under s.19 of the Local Authorities (Miscellaneous Provisions) Act 1976 to provide recreational services, including leisure centres.

7.2.3. The arcade development must comply with EU and domestic procurement rules, as set out in the Public Contracts Regulations 2006. This is currently being considered and so the proposals are made subject to this legal advice.

7.2.4. The Council's prudential borrowing powers are contained in Part 1 of the Local Government Act 2003. The Council will need to be satisfied that it may lawfully use those powers for this purpose. This will be part of the further report when full details of the proposal have been established. However, the initial view is that the Council can use its borrowing powers for this purpose.

7.2.5. The contract will GLL to operate the Pool & Track would require revision if the centre were moved. This can take place when this contract is reviewed.

7.3. Human Resources

7.3.1. None

7.4. Health Impact Assessment

7.4.1. The delivery of a new leisure centre will contribute greatly to the achievement of the Council aim to ensure residents are fit and healthy for work.

7.5. Equality Impact Assessment

7.5.1. A full EIA will be undertaken once the leisure content has been finalised.

7.5.2. As a matter of principle all new facilities will be fully accessible in accordance with the Council access design standards and the Building Regulations. The design and management thereafter will also seek to ensure the widest possible use by all sectors of the communities within the borough.

7.6. Climate Change Impact Assessment

7.6.1. A new facility will be designed to ensure significant carbon savings are made in comparison to the existing Pool and Track facility. A particular focus will be in energy saving, and there will be many opportunities in the design to share heating and ventilation systems across the differing elements within the proposed scheme.

**8. CONCLUSION**

8.1. Unless the Council is prepared to intervene it is likely that the development of the Arcade site could be delayed by several years by the current recession. The Council has a developer who has a scheme proposal that can be physically delivered

(subject to planning) and who has the willingness and the skills to move forward.

**Background Information**

Cabinet Report Dec 08  
Previous Cabinet reports

**Approval by the Chief Officer** (required for posting on the Bulletin Board)

This draft report is cleared for publication on the Cabinet Bulletin Board.

Subject to:

- (a) Any comments of Portfolio-holders via the Bulletin Board;
  - (b) Clearance by the relevant Portfolio-holder prior to inclusion on the Cabinet agenda; and
  - (c) My comments as set out below (e.g. identifying data not yet available);
- I consider the report suitable for the Cabinet agenda.

Comments: (if appropriate)

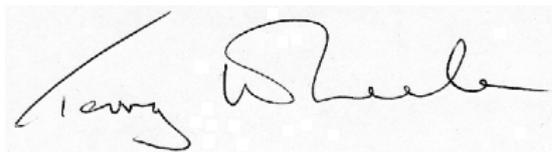
Signed: \_\_\_\_\_

Date \_\_\_\_\_

Director of Finance

**Approval by the Portfolio-Holder** (before inclusion on the Cabinet agenda)

I have cleared this report for inclusion on the Cabinet agenda.



Signed

Date 17.3.09

Portfolio Member for Enterprise and Investment