

Cabinet
20 March 2013

Urgent Item – Devonshire Park Review

(to be added to the agenda under the provisions of Section 100B(4) of the Local Government Act 1972)

Briefing paper prepared by Tracey McNulty, Senior Head of Tourism

1.0 Background

1.1 David Clarke Associates (DCA) were appointed to assess the business case for developing and investing in Devonshire Park, following the work by Marks Barfield Associates regarding the Options for the site. These were presented as four options for the new build of conference and tennis facilities and inspired the Council to undertake further work regarding the business capacity and financial modelling that would be required to realise the proposals, including a desire to challenge the proposals regarding gaining maximum value from existing facilities.

1.2 DCA's appointment was the result of a circulation of a brief to a range of similar consultancies and a shortlist interview process. The value of this work was £25,000.00 and involved:

- an analysis of the income and expenditure of the businesses running from Devonshire Park, but not Towner – which was subject to a separate piece of work at the time;
- an analysis of the opportunity to grow business, brand, reputation and profile to reduce costs and generate further income through better use of the facilities;
- the creation of a design brief for the architects based on the way the business can develop;
- oversight of the design process to put forward the new strategy for the site;
- consultation with partners and stakeholders on the solutions and rationale.

2.0 Current Situation

2.1 The resultant business case informed a new design brief and cost plan and in December 2012, Cabinet approved advancing the business planning work to a value of £40,000.00 – alongside the masterplan to RIBA stage C.

2.2 At this stage Officers did not request an exception to the CPR as the work was then being viewed as two separate strands of 1) business planning at £25,000 and 2) governance and organisational development at £15,000.

2.3 In the following months as the procurement options, finances and options around Devonshire Park and Towner were being considered, it became clear that there should be one contract only that developed a business plan alongside the most appropriate governance and organisational model to deliver it, thereby avoiding duplication.

2.4 A new specification for the work was drafted which defined the remit to include:

- Developing the business case into a fully worked up 15 – 20 year business plan;
- Operational model for the site including staffing structures and options appraisal for different governance models;
- Inclusion of Towner in the options appraisal and 'profit & loss' business plan, structures and governance;
- Financial modelling and consultation with potential funding partners and statutory agencies against the capital costs;
- Client support to ensure the design process is focused on achieving the business plan and financial model.

2.5 It has also become clear since that report that DCA would be the best consultant to provide this work, given their expertise. Our Contract Procedure Rules require us to seek an exception to the rules from Cabinet.

3.0 Options

3.1 To date we have using David Clarke's expertise with continuing consultation with local businesses and the LTA and we have anticipated formalising his continuation of his contract via the Arts Council's Framework. We have just learned that we are unable to make appointments via this Framework as only ACE can do so, despite the fact the work covers ACE funded activity. Delaying seeking Cabinet approval until the May Cabinet presents significant risk to the programme as does the option to tender this work to a wider field. We are seeking Cabinet approval to make an exception to our rules for the following reasons immediately for the following reasons:

- Continuity for the programme – re-tendering will lead to delays and further costs and may still result in DCA's appointment, due to their extensive experience and

knowledge in this field and ability to avoid a high level of duplication and retrospective analysis;

- DCA are being asked to further develop the case they have already put together based on significant analysis and benchmarking;
- Delays to advancing the business plan presents risks to the critical relationship with the LTA, which has been developed and maintained by DCA, who is maintaining the services of a tennis specialist (ex LTA asset manager and capital programme lead) within his team;
- The LTA has a Board meeting in May in which they have recently advised us at a meeting held on 12 March that they will table the business case for investing in Devonshire Park. Prior to this meeting they want to work with DCA and EBC on an open book financial modelling process to assess the options;
- Continuous work is needed on the business plan to enable the capital procurement process to align as the business plan and financing models are shaping the scope of the project, design brief and assisting in determining the procurement strategy and therefore the necessary project management services;
- Continuing the work on the organisational structure and governance, without delays, will enable the Towner transition to Trust to progress, satisfying ACE's performance indicators for Towner's business planning and EBC Service and Financial Planning;
- Delaying work on the business plan, organisational and financial modelling until post May will push the whole programme for Devonshire Park back and undermine the relationships between DCA, stakeholders and potential funders and ability to build on the business case, finance and design solutions presently on the table.

4.0 Recommendations

Cabinet are asked to approve an exception to the Council's own Contract Procedural Rules and award the further contract to DCA, without inviting additional tenders on the basis that it avoids additional costs, duplication and risks to the progress and relationships vital to realising the ambitions for Devonshire Park.