

CABINET

10th January 2006

Cabinet Members

Present:-

Councillor Blundell
Councillor Foster
Councillor Kelsey
Councillor Matchet
Councillor H Noonan
Councillor O'Neill
Councillor Ridley
Councillor Taylor (Chair)

Non-Voting Opposition

Representatives present:-

Councillor Benefield
Councillor Clifford (Substitute for Councillor Mutton)
Councillor Duggins

Other Members

Present:-

Councillor Gazey
Councillor Lee (for the item referred to in Minute 179)
Councillor Mrs Stone

Employees Present:-

J. Bolton (Director of Community Services)
F. Collingham (Chief Executive's Directorate)
J. Daly (Finance and ICT Directorate)
C. Evans (Legal and Democratic Services Directorate)
S. Iannantuoni (Chief Executive's Directorate)
L. Knight (Legal and Democratic Services Directorate)
R. Lilley (Legal and Democratic Services Directorate)
J. McGuigan (Director of City Development)
S. Pickering (Director of City Services)
K. Rice (Head of Legal Services)
A. Ridgwell (Director of Finance and ICT)
C. Steele (Chief Executive's Directorate)
J. Teahan (Community Services Directorate)

Apologies:-

Councillor Arrowsmith
Councillor Mutton
Councillor Nellist

Public Business

177. Declarations of Interest

Councillors Blundell, H Noonan, O'Neill and Taylor declared personal interests in the matter referred to in Minute 181 below headed "Ricoh Arena Community Space and Partnership Centre" insofar as it relates to the Neighbourhood Renewal Fund (NRF). Having been nominated by the City Council as representatives on the NRF Sub-Group, in accordance with paragraph 5.1.3.3.2(c) of the Constitution,

they remained in the meeting and took part in the consideration of, and voting on, this matter.

Councillor Ridley also declared a personal interest in the matter referred to in Minute 181 below headed "Ricoh Arena Community Space and Partnership Centre" insofar as it relates to both the Neighbourhood Renewal Fund (NRF) and the Coventry Sports Trust. Having been nominated by the City Council as a representative on the NRF Sub-Group and the Coventry Sports Trust, in accordance with paragraph 5.1.3.3.2(c) of the Constitution, he remained in the meeting and took part in the consideration of, and voting on, this matter.

Councillors Blundell, Duggins, Foster, H. Noonan and Ridley declared prejudicial interests in the matters referred to in Minute 181 below, headed "Ricoh Arena Community Space and Partnership Centre" and in Minute 182 below, headed "Ricoh Arena Development". The Director of Legal and Democratic Services advised, however, that the Standards Committee had granted a dispensation to these Members allowing them to participate fully in the consideration of these particular items.

Angie Ridgwell indicated that she is a Director of Coventry North Regeneration Limited, and John McGuigan indicated that he is a Director of the Arena Coventry Limited and of Coventry North Regeneration Limited.

178. Exclusion of Press and Public

RESOLVED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the item of business referred to in Minute 184 below relating to "New Homes for Old Phase 2 Private Finance Initiative – PFI Contract Negotiations" on the grounds that this item involves the likely disclosure of exempt information as defined in Paragraphs 7, 8 and 9 of Part I of Schedule 12A of that Act.

179. Second Quarter Sickness Absence 2005/06

The Cabinet considered a report of the Head of Human Resources detailing the monitoring of levels of sickness absence for the second quarter of 2005/06. The Cabinet noted that Scrutiny Board (1) had also considered this report at their meeting held on 14th December 2005 (their Minute 66/05 refers).

Second quarter absence relates to the period 1st July to 30th September, 2005, and shows an average Full Time Equivalent (FTE) average days absence of 2.43 days for all employees. Quarter 2 sickness absence had slightly decreased against the 2004/05 Quarter 2 figure.

Appendix 1 to the report submitted shows the projected annual absence in days, together with targets and year to date figures, by Directorate, in graphical form. The figures show that all Directorates, with the exception of Chief Executive's and Finance and ICT, are projected to be above the Directorate annual targets.

Appendix 2 provides individual directorate performance of FTE average days lost over Quarter 2 this year when compared with Quarter 2 last year. Work in Directorates continues within the Promoting Health at Work Strategy to improve levels of attendance and each directorate provided commentary on performance in the report.

Appendix 3 to the report provided the reported reasons for absence by percentage format and the information shows that the reasons for absence with the highest percentages are "GAST" (stomach related problems) 20.74% and "COLD" (infections, cold and flu) at 13.66%. A re-launch of absence recording forms for the accompanying management instructions in September should reduce the recording of "other" and "unknown" categories in the future.

Appendix 4 provided the Quarter 2 breakdown between frequent and long-term absence levels and showed that over 64.67% of absences were due to frequent absences (between 1 and 29 days), and Appendix 5 provides the percentage time lost from frequent absences broken down into length of absence. The management of long-term absence is clearly proving successful and greater focus is being put on short-term absences, with more specific short term trigger information now being provided to enable managers to more easily identify those employees taking frequent short term absences.

In an attempt to provide an indication of cost to the Council, the indicative cost of sickness absence is calculated using an average day's salary for employees other than teachers (£100.43), and separately for teachers (£219.43) against the average FTE number of employees and average days available for work. These figures are used to calculate the cost of sickness against the FTE average days lost. It is, of course, expected that sickness absence will occur in any organisation and, therefore, both the cost of projected absence and absence targets have been calculated. The difference between these two figures provides the cost to the organisation. At Quarter Two the projected annual cost of sickness absence of all employees, except teachers, is expected to be £2.7m above the target cost of £7.8m and teachers are projected to be £0.5m above the target cost of £5.1m

In addition to ongoing health referrals and pre-employment screening, Occupation Health & Counselling are working proactively on a number of Promoting Health at Work initiatives. They have just taken part in the European Health and Safety week, along with Corporate Safety. Occupational Health also took part in the Coventry Federation of BESD Schools 'Looking After Ourselves and Each Other' day and organised alternative therapy sessions and provided healthy lifestyle checks. They have also carried out a publicity campaign focused on Stress Risk Assessments and are providing an increased number of Stress Risk Assessment Audits across the Council.

The refinement of monthly management information now provides directorates with a consistent suite of documentation, which enables managers to note trends, previous absences and reasons and lengths of absence. Trigger alerts are also provided to managers in order to discuss absence with individual employees where necessary. Clarity has been provided as to the level of 'frequent absences

under 3 days, which is one of the procedure triggers and a flag to alert managers has been developed to enable them to meet with employees as necessary.

The Cabinet also considered a supplementary note from Scrutiny Board (1) (whose Deputy Chair attended for the consideration of this matter) outlining their views following their discussions on 14th December with Directors about the actions they are taking in relation to sickness absence.

RESOLVED that, after due consideration of the options and proposals contained in the report and matters referred to at the meeting, the Cabinet:-

- (1) Note the contents of the report submitted and support actions being taken by the Directorates to manage absence and promote health at work.**
- (2) Acknowledge the views of Scrutiny Board (1) and request Directors to ensure that:**
 - (i) They continue to make the reduction of the levels of sickness absence a high priority.**
 - (ii) They share examples of good practice in the management of sickness absence.**

180. New Homes for Old Phase 2 Private Finance Initiative – PFI Contract Negotiations

The Cabinet considered a joint report of the Director of Community Services, the Director of Finance and ICT and the Director of Legal and Democratic Services, which detailed the outcome of the negotiations which have been taking place with Anchor Trust for Phase Two of the New Homes For Old ('NHFO') Private Finance Initiative ('PFI') Project.

The Cabinet noted that a corresponding private report, detailing commercially confidential aspects, had also been submitted to this meeting (Minute 184 below refers). The Cabinet also noted that the reports on this matter had also been considered by Scrutiny Board 2 at their meeting held on 5th January 2006.

The NHFO programme is a strategic priority for the Council, the project aims being to deliver the Council's corporate objectives at every level. The Department of Health and the Office of the Deputy Prime Minister (ODPM) approved NHFO Phase Two for provisional Private Finance Initiative (PFI) funding in October 2002. This scheme comprises the provision of three schemes of housing with domiciliary care (HWDC) and two specialist residential schemes for older people living with dementia. The five schemes are to be developed on sites all located in Coventry.

One specialist 40 bedded unit for older people living with dementia and 46 housing units with domiciliary support are to be located on a site at Heath Crescent, Stoke Heath. One specialist 40 bedded unit for older people living with dementia is to be

located on a site in Quorn Way, Binley. Housing units with domiciliary support are also to be located at sites in Attoxhall Road, Wyken (34 units) and Everdon Road, Holbrooks (40 units). In addition, ten respite places for specialist dementia care service users are included within the above facilities, which will allow carers to have temporary breaks from their responsibilities.

The Cabinet gave approval on 2nd September 2003 to invite a short list of four organisations to tender to deliver the NHFO objectives and delegated to the NHFO Project Board, the evaluation methodology up to and including inviting best and final offers (Minute 71/03 refers). Tenders were invited in December 2003 and evaluated by four specialist teams, which included a mix of internal and external advisers/stakeholders and representatives from the Primary Care Trust (PCT). The outcome of the tender evaluation was considered by the NHFO Project Board on the 26th August 2004. At that meeting, the NHFO Project Board decided to request employees to invite best and final offers ('BaFOs') from two tenderers.

BaFOs were received on 15th October 2004 and the outcome from the evaluation process was reported to Cabinet on 30th November 2004 and Anchor Trust were appointed as preferred bidder (Minutes 113/04 and 117/04 refer).

Approval was given for the Director of Community Services (the then Director of Social Services and Housing) to enter into contractual negotiations with the preferred bidder and to report back to Cabinet through the NHFO Project Board on the outcome of the negotiations from approval to proceed to contract signature/award.

Anchor Trust is to be invited to enter in a contract to design, build, finance and operate the services for older people in three new housing with care facilities and two specialist dementia care facilities. An annual unitary charge will be payable by the Council to Anchor Trust once the first facility becomes available, for a period of twenty-five years.

The specific terms are being established through the current negotiations in a contract between Anchor Trust and the Council, at the core of which will be a performance related payment mechanism with agreed deductions for failure to meet prescribed standards.

The project requires Council approval as well as Department of Health (DH), Office of the Deputy Prime Minister (ODPM) and Partnerships UK (PUK) clearance. External Auditors confirmation is also required regarding certain accounting treatments. These all need to be obtained before final contract award and financial close is reached.

RESOLVED that the City Council be recommended to:-

- (1) Approve the outcome from the Council's negotiations with Anchor Trust in respect of the financial, technical and legal issues identified by employees and the Council's technical, legal and financial advisors following the submission of Anchor Trust's Best and Final Offer (BaFO).**

- (2) Give approval to enter into the contract ('Project Agreement') for the provision of care services for older people in five new buildings as outlined in the report submitted.**
- (3) Delegate authority to the Director of Community Services to negotiate, settle and approve the final form of the Project Agreement and other ancillary documents relating to the project to achieve financial close during this financial year 2005/06 and ensure affordability to the Council.**
- (4) Subject to the approval of the Final Business Case by the Office of the Deputy Prime Minister (ODPM) and the Department of Health (DH), enter into the contract for the New Homes for Old ('NHFO') Phase 2 Private Finance Initiative ('PFI') Project with Anchor Trust.**
- (5) (a) Authorise the Director of Legal and Democratic Services to sign the Project Agreement and other ancillary Documents; and**
(b) Delegate authority to the Director of Community Services to agree any further substantive changes.
- (6) Authorise the Director of Legal and Democratic Services to sign the Local Government (Contracts) Act 1997 Certificate in relation to the Project Agreement.**
- (7) Grant the Director of Legal and Democratic Services an indemnity against any claims arising from the signature of the Local Government (Contracts) Act 1997 Certificate in respect of the project.**
- (8) Request that the Cabinet receive a further report on the final outcome of negotiations after financial close.**

181. Ricoh Arena Community Space and Partnership Centre

The Cabinet considered a joint report of the Director of City Development, the Acting Director of Education and Libraries, the Director of Finance and ICT and the Director of Legal and Democratic Services, which sought approval of the funding arrangements for the Community Space and Partnership Centre project and the method of procurement of a contractor for the fit-out of the accommodation.

As part of the construction of the Arena project, provision of space under the South stand was made for fit-out as accommodation to be used for the benefit of the neighbouring communities of Foleshill, Longford and Holbrooks. The construction of the enclosing shell of the space has been completed as part of the main Laing O'Rourke contract. An area of 490 square metres has been allocated at level 1 together with a further 365 square metres at level 2, giving a total floor area of 855 square metres.

Over the past year, employees have worked with community representatives to develop proposals for the use of the space. There is also a longstanding commitment to replace the education Partnership Centre formerly based at Highfield Road.

Following joint discussions with the community representatives, it is proposed to use the space at level 2 to develop an Education Partnership centre which would replace that which previously operated from the football ground at Highfield Road providing facilities for children of school age and, in addition, create facilities for adult education. It is proposed that services be delivered by the Education and Libraries Directorate and in partnership with Henley College.

The accommodation at level 1 would then be utilised for more broadly based community activities, including social events; performances; meetings; exhibitions etc., and be flexible and adaptable in use. Floor layouts have been prepared and agreed with the community representatives. Cost estimates have been prepared by appointed quantity surveyors, which indicate that, if traditionally procured, the cost of the works could be up to £1m.

The Cabinet were reminded that the adjacent area at the Arena is earmarked for use as a leisure centre to be operated by Coventry Sports Trust. A contract has been procured by Arena Coventry Ltd. for the fit-out of the leisure centre at a cost in the order of £750k. That contract was placed with Ideal Ltd after a competitive tender procedure and is currently approaching completion during January 2006.

Having regard to the likely availability of grant, it was evident that a traditionally procured tender would not be affordable. As an alternative to traditional procurement, employees have investigated an alternative option to negotiate an offer from Ideal Ltd to undertake the works in addition to the fit-out of the leisure centre on a design and build basis and to benefit from both their familiarity with the Arena situation and construction and the cost benefit of the increased scale of the combined works.

Accordingly Ideal Ltd have submitted a proposal to undertake the works for a total of £610,000 plus 5% contingency/risk allowance making a total of 640,500, together with drawings and specifications that represent an acceptable standard and value for money.

RESOLVED that, after due consideration of the options and proposals contained in the report and matters referred to at the meeting, the Cabinet:-

- (1) Approve the funding arrangements described in paragraph 5.2.2 of the report submitted.**
- (2) Approve the procurement of a contractor for the fit-out by a single negotiated tender.**
- (3) Approve entering into a contract for the fit-out with Ideal Ltd., Coalville, Leicestershire on the terms stated in paragraph 4.6 of the report submitted.**

182. Ricoh Arena Development

The Cabinet considered a joint report of the Director of Finance and ICT and the Director of City Development, which provided details on the progress of the Ricoh Arena development, including timescales and costs.

On the 16th October 2003, the Council approved a scheme to construct an Arena in the North of Coventry on the site of the former Foleshill Gas Works. The Ricoh Arena is a mixed-use regeneration project, including a 32,000 seat football stadium, a casino, conferencing and banqueting suites, offices, fitness studios and community space. The Ricoh Arena is being developed alongside a private sector shopping development.

The Council is the ultimate owner of Coventry North Regeneration Limited (CNR), a company set up by the Council to construct the Ricoh Arena. The development agreement requires CNR, on completion, to lease the Ricoh Arena to Arena Coventry Limited (ACL). ACL will operate the Ricoh Arena and is 50% owned by the Alan Edward Higgs Trust and 50% owned by the Council. ACL is required to pay CNR either rent of £1,950k per annum or a lease premium of £21million. CNR will use this income to repay the £21million loan from the Council either in instalments or in full. A copy of the company structure was attached as Appendix A to the report submitted.

The arrangements between the Council and the two companies it wholly or partially owns are complex. They have however successfully facilitated the building of the Arena and the maximisation of the resource available as well as enabled successful joint partnerships. The arrangements described in the report are designed to recognise, in a transparent and balanced way, the impact of the construction issues on the commercial operation of the Ricoh Arena, while protecting the interests of the Council, whose approach has always been to carefully control the expenditure of building the Ricoh Arena to ensure maximum cost effectiveness and regeneration benefits.

On the 19th December 2003, CNR signed the construction contract for the Ricoh Arena with Laing O'Rourke. The contract stated that the completion date for the Arena was the 31st July 2005 subject to any extensions of time granted under the contract. In June 2005, the Council received a report stating that the Ricoh Arena would be completed on the 19th August 2005, and detailing the reasons for the short delay to the opening.

The Council budget for the Ricoh Arena included an allocation for the interest due on the £21million loan from the date it was advanced to CNR to construct the Arena, until the Ricoh Arena was completed. The Ricoh Arena was substantially complete on the 19th August 2005 and the first football match took place there on Saturday 20th August 2005. It was noted on the 19th August 2005, that although the Ricoh Arena was substantially complete, there were still a number of areas and items of work that were not fully completed that were in addition to the snagging list of works attached to the certificate of practical completion.

As would be expected in such circumstances, ACL have presented CNR with information that demonstrates the impact that the Ricoh Arena not being fully complete had on their predicted business plan during the period between the 19th August 2005 and the completion of all outstanding works. CNR recognises that there was an adverse impact on ACL and as a result, the Directors of CNR have agreed to give ACL an allowance equal to the amount of rent ACL is due to pay to CNR between the 19th August 2005 and the 31st January 2006; and time limited cashflow assistance, at a commercial rate of interest, up to an amount of £1m which will have no cost to the Council.

Despite a buoyant business plan, the completion issue had an effect on ACL's initial trading performance, although current prospects are extremely promising.

The Arena working party established in the initial Council report in October 2003, have been kept informed of all developments in respect of these issues.

Under the previous terms of agreement, CNR would pass on the ACL rental received directly to the Council. The changes to the agreement following delay in completion mean that this will not now happen until February 2006. Due to the company structure arrangements, in the intervening period, the Council will need to provide additional funding to CNR, estimated at £900k, in order for the company to meet its financial obligations to the Council during the period. As CNR is a wholly owned company of the Council, this is at no cost to the Council.

The Council will continue to fund the £21m borrowed to provide the loan to CNR to construct the Arena. The cost to the Council of this borrowing, using the Council's current borrowing rate of 4.28%, is estimated to be £400k.

The allowance and the cashflow assistance will give ACL the flexibility to pursue their business plan while their financial position is being consolidated. The Council has agreed with ACL that this agreement will be in full and final settlement of any issues arising from the parts of the development that were not completed on the 19th August 2005.

The Cabinet noted that CNR is taking legal advice on the opportunities to get compensation from Laing O'Rourke.

RESOLVED that the City Council be recommended to:-

- (1) Agree to provide, at no cost to the Council, additional funding, estimated at £900k, to Coventry North Regeneration Limited (CNR), the Council's 100% owned development company, to enable the company to meet its financial obligations to the Council during the period between the practical completion of the Arena (19th August 2005) and the receipt of income from Arena Coventry Limited (ACL) (31st January 2006), the tenant company of the Ricoh Arena, in the form of either rent or the lease premium.**
- (2) Note that the arrangement made between CNR and ACL means that**

the Council will be required to fund the borrowing costs of the £21m estimated at £400k until the receipt of income from ACL, after it being noted that this will be funded from general reserves.

- (3) Note the intention of ACL to pay the lease premium of £21m to CNR to enable the company to repay the Council loan of £21m.**
- (4) Agree to provide time limited cashflow assistance of up to a £1m to CNR, noting that a commercial rate of interest will be charged on any amounts advanced as part of the agreement and that this assistance is therefore at no cost to the Council.**
- (5) Agree that the Cabinet receive a report back in 2006 on the progress of the Ricoh Arena development and any related financial and legal implications.**

183. Outstanding Issues

The Cabinet considered a report of the Director of Legal and Democratic Services, identifying those issues on which further reports have been requested/are outstanding, so that Members are aware of them and can monitor progress.

RESOLVED that, after due consideration of the options and proposals contained in the report and matters referred to at the meeting, the report be noted.

Private business

184. New Homes for Old Phase 2 Private Finance Initiative – PFI Contract Negotiations

Further to Minute 180 above detailing related public aspects of this matter, the Cabinet considered a joint report of the Director of Community Services, the Director of Finance and ICT and the Director of Legal and Democratic Services, which sought approval to proceed to contract signature with Anchor Trust to deliver the New Homes for Old ('NHFO') Phase 2 Private Finance Initiative ('PFI') Project.

The report detailed the proposed terms of contracts, along with the financial implications of the proposed arrangements.

RESOLVED that the City Council be recommended to:-

- (1) Approve the outcome from the Council's negotiations with Anchor Trust in respect of the financial, technical and legal issues identified by employees and the Council's technical, legal and financial advisors following the submission of Anchor Trust's Best and Final Offer (BaFO).**
- (2) Give approval to enter into the contract ('Project Agreement') for the**

provision of care services for older people in five new buildings as outlined in the report submitted.

- (3) Delegate authority to the Director of Community Services to negotiate, settle and approve the final form of the Project Agreement and other ancillary documents relating to the project to achieve financial close during this financial year 2005/06 and ensure affordability to the Council.**
- (4) Subject to the approval of the Final Business Case by the Office of the Deputy Prime Minister (ODPM) and the Department of Health (DH), enter into the contract for the New Homes for Old ('NHFO') Phase 2 Private Finance Initiative ('PFI') Project with Anchor Trust.**
- (5) (a) Authorise the Director of Legal and Democratic Services to sign the Project Agreement and other ancillary Documents; and**
(b) Delegate authority to the Director of Community Services to agree any further substantive changes
- (6) Authorise the Director of Legal and Democratic Services to sign the Local Government (Contracts) Act 1997 Certificate in relation to the Project Agreement.**
- (7) Grant the Director of Legal and Democratic Services an indemnity against any claims arising from the signature of the Local Government (Contracts) Act 1997 Certificate in respect of the project.**
- (8) Request that the Cabinet receive a further report on the final outcome of negotiations after financial close.**