

CABINET
12 SEPTEMBER 2013

ACACIA HOSPITALITY CONTRACT

1. Summary

1.1 Tenders were invited for the management of weddings, entertainment and related operations at Acacia Mansion House, Marquee, Gazebo, Ballroom, Bar, Coach House and Darent Suite. Three tenders were received, and these were evaluated by a panel of Members and officers. This report recommends the award of a contract.

2. RECOMMENDATIONS

2.1 That the results of the tender for the management of weddings, entertainment and related operations at Acacia be noted;

2.2 That a contract for the Acacia Mansion House, Marquee, Gazebo, Ballroom and Bar, Coach House, and Darent Suite, be offered to Tenderer 2, on detailed terms to be agreed by the Managing Director in consultation with the Portfolio Member for Leisure.

2.3 That a lease be granted to Tenderer 2 to run concurrently with the management contract, on terms to be agreed by the Managing Director in consultation with the relevant officers.

3. Background and Discussion

3.1. On 24 June 2013 the Managing Director authorised the tender of a concession for leisure and entertainment operations at Acacia Mansion House, Marquee, Gazebo, Ballroom and Bar, Darent Suite and Coach House, under Standing Order 38 (urgent action). This was reported to Cabinet at its meeting on 25 July 2013 (min. no. 42)

3.2. Three tenders were received. These were evaluated by a panel comprising the Leader of the Council, the Portfolio Member for Leisure, the Managing Director and the Regeneration Director, using the selection criteria set out in the approved specification.

3.3. These were:

- i) Financial value
- ii) Financial risk
- iii) Contribution to overall sustainability of the Acacia site
- iv) Contribution to the town centre

3.4. The tender instructions allowed each tenderer to submit proposals for all or part of the Acacia complex, and also allowed flexibility for each tenderer to propose how site costs should be allocated between the

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operator and the Council rather than specifying these in the instructions.

- 3.5. In order to allow the resultant tenders to be compared on a common basis, the assessment of financial value took into account the tendered financial proposal itself, and the financial impact of any liabilities which would remain with the Council under each tender, including running costs of the premises included in the tender and a nominal “hibernation cost” for any parts of the complex not included in the tender.
- 3.6. The tender instructions also allowed flexibility for each tenderer to propose any combination of guaranteed payments and income share or profit share. In order to allow guaranteed payments to be compared with turnover-dependent payments, a view was taken on the level of risk inherent in each tender where turnover-dependent payments formed all or part of the proposal. This was done by assessing the Business Plan submitted with the tender, and by interviewing each tenderer.
- 3.7. The financial evaluation of the tenders was made both with and without adjustment for risk, in order to assess how sensitive the comparison between the tenders would be to this factor.
- 3.8. The financial assessment was based on the overall value of the tender over the proposed contract term of 7 years less one day. The income and expenditure profile over the contract term has not been taken into account in calculating the tender value, as this would have complicated the comparison further. However, Members are asked to note that all tenders propose a similar profile, with the value of the contract increasing each year from a low initial base, reflecting the expected growth of the business over the contract term. Tender 1 also shows the value peaking in year 5, then reducing in the final two years of the contract, reflecting the uncertainty over renewal of the contract at the end of the term.
- 3.9. Exempt Appendix A shows the financial comparison between the tenders. Members will note that only Tender 2 offers the Council a net income over the lifetime of the contract, taking into account the contract payments, the Council’s residual costs in relation to the buildings included in each tender, and the “hibernation costs” of any buildings excluded from each tender.
- 3.10. Exempt Appendix A also shows that Tenders 2 and 3 are sensitive to the assumptions made about the level of risk inherent in the financial offer, because they both propose an income or profit share. However, the base value of Tender 2 is so much higher than that of the other tenderers that it remains the most financially advantageous even when allowance is made for financial risk.
- 3.11. The non-financial assessment considered the extent to which each tender proposed a sustainable solution to the Acacia site as a whole, taking into account how much of the site would be covered by the

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proposed contract and whether the uses proposed were compatible with other parts of the site, and also the extent to which the combination of uses proposed would support the Council's objective to enhance the vitality and variety of offer in the town centre as a whole.

- 3.12. Exempt Appendix A shows the scores awarded to each Tender on the basis of non-financial criteria. Tender 3 only proposed use of the Marquee and Mansion House, and therefore scored least well in terms of the sustainability of the site. Tender 2 encompassed all parts of the site except those already in use, and so scored maximum points on this criterion.
- 3.13. Tenders 1 and 2 both proposed a range of uses which would complement and enhance the town centre, including weddings, functions, entertainments, business and corporate uses and community uses. Tender 2 proposed a business club and a gastro pub, while Tender 1 proposed a business resource centre. Tenders 1 and 2 scored equally for contribution to the town centre. Tender 3 proposed a narrower range of activities centred on weddings and other hospitality functions. It would maintain, but not broaden, the town centre offer.
- 3.14. Overall, Tender 2 offers the best financial solution for Acacia, as well as the best non-financial attributes. It should be noted that Tender 2 assumes that capital funding for improvements to the premises can be obtained from external sources, including a brewery to equip the Bar as a Gastro Pub, and the Heritage Lottery Fund or English Heritage for conservation-standard refurbishment of parts of the Mansion House and Coach House. If this is not forthcoming there is a risk that the business will not reach the level of profitability envisaged in the Business Plan, and that the Council's income share will be less than anticipated. It is not possible to gauge the financial impact of this precisely. However even if the return to the Council is discounted by 50% the proposal still remains more attractive than the nearest competing tender.
- 3.15. It is likely that the Council will need to provide financial support for the preparation of detailed proposals for external funding. The extent of this requirement is not known, but it is expected that it can be contained within existing budgets.
- 3.16. The Panel recommend that a service management contract be awarded to Tender 2 on terms to be agreed by the Managing Director in consultation with the Portfolio Member for Leisure. Rights of access to the premises will also need to be granted, to allow the operator to operate the business. These can be granted by way of a lease, on terms to be agreed by the Managing Director in consultation with the relevant officers.

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4. Relationship to the Corporate Plan

HW2: Increase the opportunities for participating in sporting, cultural and leisure opportunities

5. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications	<p>The Acacia budget for the whole site is £178,840. From this needs to be deducted estimated costs for the sports centre and grounds maintenance, which are not included in the tenders. This gives a net budget of £118,930.</p> <p>The net financial impact of Tender 2, taking into account income (discounted by 30% to allow for risk) and expenditure for the premises included in the contract, starts at £102K net cost in year 1 (2014/15) reducing to £54K in year 2, and reducing further in years 3 to 5, and producing a net surplus in years 6 and 7.</p> <p>This means that the contract has the potential to generate year on year savings (significant from year 2 onward) for the Council, if the operator achieves the discounted level of commercial viability assumed. Even at a further reduced level of activity, the contract could still generate annual savings.</p> <p>As noted in paragraph 3.14 this depends on the successful generation of external capital funding for improvement works. The Council will incur costs in developing a bid for external funding but this is not likely to be high and can be met from the Feasibility Reserve.</p>
Legal Implications	<p>The successful tenderer will be offered a management contract on terms which reflect the tender proposal, the detailed terms to be agreed by the Managing Director in consultation with the Portfolio Member for Leisure.</p> <p>A lease will also need to be granted to set out the terms for the operator's use of the premises. Such lease will be excluded from the security of tenure provisions of the Landlord and Tenant Act 1954, so that the operator has no statutory rights to a new lease at the end of the term.</p> <p>In order to comply with the capital clawback provisions of the Funding Agreement under which the Government provided grant assistance for the Council's purchase of the Acacia Hall site, a lease and</p>

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	<p>contract term not exceeding 6 years and 364 days will be offered to the successful tenderer.</p> <p>The lease and the contract will also restrict the uses of the site to ones which comply with the overage provisions of the land purchase agreement between the Council and the Wellcome Foundation Limited.</p>
Staffing Implications	None
Administrative Implications	None
Risk Assessment	<p>The Council is currently exposed to considerable financial risk by virtue of not having sustainable management arrangements for Acacia. By awarding a contract for 6 years and 364 days this risk will be substantially reduced.</p> <p>There is a residual risk that the commercial operation does not perform as well as anticipated in the tender, particularly if, as noted in paragraph 3.14 of the report, the operator is unsuccessful in securing external funding for investment in the premises. This would reduce the financial advantages to the Council arising from the contract. However the financial risk of each tender has been carefully assessed and balanced against the other evaluation criteria, and the evaluation panel have concluded that the recommended tender offers the best overall solution for Acacia, at an acceptable level of risk.</p>

6. Details of Exempt Information Category (exempt Appendix A only)

SO46 (1)(b) Annex 1 category 3: Information relating to the financial or business affairs of any particular person (including the authority holding the information)

7. Appendices

Exempt Appendix A – Tender Evaluation

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
Tender documents	Various	R. Scott (01322) 343632	Regeneration	SO46 (1)(b) Annex 1 category 3 (Appendix A only)