

REPORT OF THE CHAIRMAN OF THE CULTURE COMMITTEE**SHERWOOD FOREST VISITOR CENTRE ATTRACTION – PROCUREMENT
OF OPERATOR****Purpose of the Report**

1. To inform Policy Committee of the outcome of the procurement process for the Sherwood Forest visitor centre/attraction.
2. To seek approval to enter into legal agreements with the successful bidder to manage the design, funding and operation of a new visitor centre/attraction at Sherwood Forest.
3. To seek approval for the Council's potential financial contribution towards the new centre/attraction.

Information and Advice

4. The Council is committed to ensuring that Sherwood Forest, home of Robin Hood, hosts a modern and exciting visitor centre/attraction. To achieve this, the Council has sought an operating partner with suitable experience and expertise to run a visitor attraction on Council owned land opposite the Forest site.
5. Whilst safeguarding the ancient forest so it can be enjoyed for generations to come, and ensuring that access to the ancient forest and legendary Major Oak remains free for all, the Council wishes to:
 - Significantly boost tourism and tourist spend in Nottinghamshire;
 - Secure and create new jobs in the local tourist industry (including many new jobs at the new visitor attraction);
 - Provide modern educational and learning facilities at Sherwood;
 - Reduce the level of public funding required to operate/manage visitor facilities at the Forest, so that available funding can be re-invested in its protection and management.
6. The current visitor centre is located on the Sherwood Forest National Nature Reserve (NNR), a European Special Area for Conservation (SAC) designated under the Habitats Directive. The County Council manages part of the NNR & SAC under an agreement with Natural England, the Government's nature conservation body.
7. In 2002, the Council agreed with Natural England to remove the visitor centre and car parking within the NNR boundary to help improve its conservation status. All facilities

should have been removed by December 2010, but in the light of its financial constraints, the Council has agreed an extension with Natural England to exit the site by 2015/16.

8. A feasibility study on the relocation of the current centre was undertaken in 2004. An adjacent arable field was identified as the preferred site for the new centre. This was purchased in 2008.
9. Some information relating to this report is not for publication by virtue of paragraphs 3 and 5 of Schedule 12A of the Local Government Act 1972. Having regard to all the circumstances, on balance the public interest in disclosing the information does not outweigh the reason for exemption because the information would add a limited amount to public understanding of the issues but would significantly prejudice the bidders in relation to disclosure of information regarding their financial and business affairs. The Exempt Appendix also includes legal advice on the legal implications for the Council in relation to the proposals set out in this report to which legal professional privilege applies. The exempt information is set out in the **Exempt Appendix**.

Vision for a new Centre

10. The Council's vision for a new visitor centre/attraction is to:

Create a new visitor attraction which promotes and enhances the national and international reputation of Sherwood Forest, the legend of Robin Hood and the broader history and heritage of Nottinghamshire.

11. The Council's brief for bidders for the replacement centre/attraction required them to develop proposals that would:
 - *Create a new, exciting, innovative, all weather, all year round visitor and tourist attraction*
 - *Increase visitor numbers*
 - *Have a minimum life span of 25 years*
 - *Have a landscape plan that is compatible with any building design*
 - *Permit free access to the NNR through a safe road crossing*
 - *Manage visitor impact on the habitat of the NNR*
 - *Provide visitor information on the NNR, the Forest and Nottinghamshire*
 - *Provide educational and learning facilities*
 - *Provide car parking facilities and/or park and ride operation*
 - *Ensure the site infrastructure can support increased visitor numbers*
 - *Ensure that environmental and sustainable good practice is followed during the design, development and operation of the centre*
 - *Secure the involvement of partner agencies and organisations*
 - *Provide facilities for NNR ranger and site management personnel and their equipment*
 - *Reinvest a proportion of income to support NNR management*
 - *Reduce the level of capital commitment required from the County Council.*

The Procurement Process

12. The Sherwood Forest Visitor Centre project was established to manage an EU Works Concession Procurement, the legal process by which an operator could be procured.

This was considered to be the best process to be followed as it gave a high degree of flexibility to potential operators.

Contracting Model

13. Three key legal documents have been prepared which bidders were required to sign up to in the bidding process. The legal agreements comprise:
 - **Development Agreement.** This part of the contract comes into effect first and runs for the planning and construction phases of the development of the new site. It sets out the overall design specifications and regulations to which the new visitor centre and attraction will be built. Effectively, it ensures the operator builds what they say they will build. It also places risk in the initial stages of the development firmly with the operator, particularly in respect of obtaining planning permission.
 - **Operating Agreement.** This contract comes into effect after practical completion of the construction of the visitor centre and attraction as set out in the Development Agreement. It sets out the terms and conditions by which the operator will operate the centre and attraction. In short, it ensures the operator runs the visitor centre and attraction in the way they said they will and the way the Council requires them to. The Operating Agreement has been designed to optimise operational flexibility for the new operator (as it is mainly their capital and revenue finances that are at risk under the terms of the Operating Agreement), while at the same time providing reassurance that there are arrangements in place to manage any risks to the greatest extent possible.
 - **Lease.** The Lease is for the Council owned site and comes into effect once the development is completed. It is signed as a separate document to the Operating Agreement but mirrors its duration. In the event that the Operating Agreement is terminated, the Lease will come to an end, and vice-versa. The majority of the controls in respect of the safe and smooth running of the new facilities will be contained within the Operating Agreement.

Evaluation Process

14. Following a dialogue process with two bidders, in June 2012 two bids were received. These have been evaluated by a multi-disciplinary officer and partner panel according to five broad categories:
 - The Attraction (40% of marks awarded in the evaluation process)
 - Finance (30%)
 - Community and Economic Benefits (10%)
 - Environmental Impact (10%)
 - Fit with Strategic Plans (10%)

Outcome of Evaluation

15. For the purposes of this report, the two bidders are referred to as Bidder A and Bidder B. The moderated scores for both bids are contained in the **Exempt Appendices 1a and 1b**, along with further information about each bid.

16. It is recommended that the concession be awarded to Bidder A on the basis of the moderated scores.
17. Both bidders shall be informed of the outcome of the procurement and given feedback in accordance with the requirements and obligations of EU public procurement rules.
18. The award will be subject to successful clarification/fine-tuning of any outstanding issues in the contract documentation to be addressed by the Council with Bidder A. The contract documentation will not be subject to re-negotiation. Any amendments to be made to the contract documentation will be a matter of fine-tuning.
19. On successful completion of the clarification/fine-tuning stage, the Council and the winning bidder will complete the three legal agreements set out above.
20. Should it not be possible to conclude these outstanding points, then the Council may consider re-engaging with the unsuccessful bidder. The Council also reserves the right not to award the contract to any bidder. In this case, this will be reported back to the Policy Committee for further consideration and approval.

Other Options Considered

21. In 2008, the Council attempted the development of a new visitor centre at Sherwood through a major national lottery bid which ultimately was unsuccessful. The Council subsequently considered different design options to be funded from within its capital programme, but given the budget pressures experienced in the past two years, these options were financially unsustainable.

Reason/s for Recommendation/s

22. The establishment of a replacement visitor centre/attraction will enable the Council to fulfil its obligation to exit the current visitor centre site, and will deliver improved and sustainable visitor facilities to one of Nottinghamshire's major visitor attractions.

Statutory and Policy Implications

23. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and legal advice sought on these issues as required.

Implications for Service Users

24. The delivery of the Council's vision for the visitor centre will improve customer numbers and the customer experience significantly, through the establishment of a range of new and enhanced facilities. The successful establishment of a new visitor centre/attraction will also support continuing free public access to the NNR and its effective preservation, and deliver employment and economic benefits to Nottinghamshire.

Financial Implications

25. These are set out in the **exempt appendix** to this report.

Equalities Implications

26. Delivery of the Council's vision for the new centre/attraction will improve current levels of access for people with disabilities. The operating agreement requires the successful bidder to comply with all current equal opportunities related statute and prepare and implement a full Equalities Impact Assessment of their scheme.

Human Resources Implications

27. The successful bidder will accept the transfer of existing visitor centre employees with protection under the Transfer of Undertakings (Protection of Employment) (TUPE) regulations. Final details of the staff transferring will be agreed as part of the clarification of the Operating Agreement.
28. Full communications and consultation will take place with those employees affected and with the relevant trade unions, in respect of the planning and implementation of the transfer of employment.

Planning Implications

29. Newark and Sherwood District Council is the planning authority that will determine the application for the new centre. In this respect, there are a number of key planning elements that the successful bidder will need to address in terms of heritage and conservation impact, car parking and traffic management, and the scale and scope of the buildings and facilities on offer.

Environmental Implications

30. As a core stakeholder in the Sherwood Forest National Nature Reserve (NNR), Natural England (NE) was invited to comment on both bids, and commented on the key questions pertinent to the future conservation and management of the Forest. The comments were not taken into account in the scoring of the bids, but this consultation with Natural England enabled the Council to understand better the impact of the matters set out in each bid.

Legal Implications

31. Legal comments are set out in the body of this report.

Risk and Insurance Implications

32. The successful bidder will be expected to take full insurance responsibility both during the construction and operational phases, including insurance of the buildings. The contract will include indemnity clauses requiring the successful bidder to indemnify the Council against losses arising from their negligence and this will be backed up by appropriate levels of liability insurance placed with an insurer with a rating of no less than A-. Proof of the insurance will be provided to the Council on an annual basis.

RECOMMENDATIONS

That Policy Committee:

- 1) Approves the award to Bidder A of a works concession to be the operating partner for a new visitor centre/attraction at Sherwood Forest, subject to successful clarification/fine-tuning of the legal agreements described in this report;
- 2) Approves the Council entering into the necessary Legal Agreements to give effect to the project within the financial parameters set out in the **Exempt Appendix 2**;
- 3) Gives delegated authority to the Corporate Director, Children, Families and Cultural Services, in consultation with the Group Manager, Legal and Democratic Services, to approve any additions or amendments to any agreements which in their judgement are necessary to give effect to the project and which are within the financial parameters set out in this report;
- 4) Agrees that the Culture Committee will receive further reports regarding the design, development and longer term operation of the new visitor centre/attraction.

Councillor John Cottee
Chairman of the Culture Committee

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Constitutional Comments (SSR 01/10/12)

33. The proposals in this report are within the remit of this Committee.

Financial Comments (PS 03/10/12)

34. The financial implications are set out in the exempt appendix.

Background Papers

Redevelopment of the Sherwood Forest Visitor Centre - report to Cabinet on 14/9/11
Sherwood Forest Visitor Centre - report to Culture Committee on 26/6/12

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Electoral Division(s) and Member(s) Affected

All.
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