

WYRE FOREST DISTRICT COUNCIL

AUDIT COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY,
KIDDERMINSTER

27TH OCTOBER 2021 (6PM)

Present:

Councillors: R H Coleman (Chairman), P W M Young (Vice-Chairman), V Caulfield, B S Dawes, N J Desmond, P Dyke, F M Oborski MBE and C Rogers.

Observers

Councillors: H E Dyke, C Edginton-White, N Martin, S Miah and M Rayner.

AUD.27 Apologies for Absence

There were no apologies for absence.

AUD.28 Appointment of Substitutes

No substitutes were appointed.

AUD.29 Declarations of Interests by Members

No declarations of interest were made.

AUD.30 Exclusion of the Press and Public

Agreed: That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in the paragraph 1 of Part 1 of Schedule 12A to the Act.

AUD.31 Audit Review – Unity Park (Former Frenco Site) – Provision of 9 Industrial Units

A report was received from the Chief Executive which provided the Audit Committee with the independent review by the Audit Manager of issues relating to the contract of the construction of 9 business units at the former Frenco Site on Silverwoods Way, Kidderminster.

The Chairman thanked the Chief Executive and the Audit Manager for the immense amount of work and effort that had gone into the review.

The Chief Executive presented the report and gave a brief summary of the

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background of the review. He drew members' attention to the first learning point set out in the confidential report about whether and how the Council assesses the financial standing of tenderers.

The Audit Manager presented the review report which detailed observations and key findings and included key extracts from the detailed evidence and financial implications. She drew members' attention to the executive summary and assured members that the detailed review had been done independently. She was pleased to report that from a governance perspective the Council had acted professionally and in accordance with the Council's Constitution, Financial Regulations and Contract Procedure Rules. She thanked the Corporate Director: Economic Prosperity & Place and the Contracts Solicitor for the additional information they had provided during the review.

A full and frank discussion ensued. The Committee fully scrutinised the report and engaged in a question and answer session with the Chief Executive, Corporate Director: Economic Prosperity & Place, Corporate Director: Resources, Audit Manager and the Contracts Solicitor.

To assist the formulation of recommendations to Council, the Chairman tabled a list of items for the Committee to consider. The Committee felt that the Council's approach under the contract procedure rules was a factor and that a review of the rules should be undertaken and presented to the next meeting of the Audit Committee.

Agreed:

- 1. The Audit Committee CONSIDERED the principal conclusions of the independent review which did not identify any weaknesses or defects in the process for procurement, award of contract, monitoring of progress with construction or making of payments to the contractor.**
- 2. The Audit Committee NOTED the advice in the report that external factors, outside the control of the Council, were the principal cause of difficulties with this project, namely the weather in early 2020, the COVID pandemic since March 2020 and the financial collapse of the contractor. In addition the Committee felt that the Council's approach under the contract procedure rules was a factor and that a review of the rules should be undertaken.**
- 3. Based on the evidence provided in the independent review and the further commentary in the report, to help ensure future contracts are successfully completed, the Audit Committee recommends to Council that it NOTES that:**
 - a) In consultation with Procurement Officer colleagues from West Mercia Police, the Solicitor to the Council and Corporate Director: Resources will work up proposals for revisions to the Contract Procedure Rules to include a framework for applying financial appraisals for consideration by the Audit Committee at its next meeting, the framework to**

include a threshold for size of construction contracts above which there should be a financial evaluation criterion;

- b) Consideration should be given as part of that revised framework to what provision the Contract Procedure Rules should make about vetting of potential new construction contractors, in respect of financial standing and evidence of completion of previous comparable contracts, in addition to any self-assessment provided; in what circumstances the mitigation measures in PPN 02/13 should be considered, including performance bonds; in what circumstances arrangements about retention are required and what they should be; and what steps should be taken in the event that a contractor's invoice during a contract is rejected in whole or in part, including reporting the fact to councillors;**
- c) The Committee considers that, in future, no project should proceed where the logic of creating an income stream is found to work only if the accepted contractor's price is all that makes it viable and that contractor's price is both the lowest and significantly lower than others received.**

There being no further business, the meeting ended at 8.21pm.