

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

3944

Author:

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Department:

Development and Growth

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Subject:

Essential Health and Safety Works at Broadmarsh Shopping Centre

Total Value:

Up to £343,500 (Type: Revenue)

Decision Being Taken:

- 1) Delegate the authority to the Corporate Director of Development and Growth to award contracts to those mentioned within the main body of this report.
- 2) To dispense with Contract Procedure Rules 4.1.2, in accordance with Financial Regulations (3.29, Operational Issues), to directly award the following contracts
  - Sir Robert McAlpine for Short term Works
  - MPN - Structural Surveyor Consultant
  - Desco - Mechanical and Electrical Consultant

**Reasons for the Decision(s)** Following the recent demise of intu and the winding up of those group companies associated with the Broadmarsh Shopping Centre the Official Receiver has disclaimed the headlease, resulting in the control of Broadmarsh Shopping Centre returning to the Council as the freehold owner of the site. Initial inspection has indicated that there are a number of urgent Health and Safety issues that need to be addressed on this demolition site, and the public right of way between Lister Gate and Collin Street needs to be reopened. The costs and description of these works can be broken down as follows:

1) Short Term Works ( £180,000) - This works will be undertaken by Sir Robert McAlpine Construction, who were intu's main contractor and therefore have extensive knowledge of the site and its condition. This work will allow the Council to quickly ensure that the building has a short-term safe standing, assist the Council with understanding the asset, provide temporary works and attendance, carry out inspections and tests of life safety systems, share records and information, undertake general maintenance and attendance and liaise with the providers of statutory services and tenants.

2) Structural Surveyor Consultant ( £30,000) - MPN were previously engaged on the project for their structural input. They have extensive knowledge of the building and its structure, and their input is urgently needed for this building at the critical stage of demolition.

3) Mechanical and Electrical Consultant (£30,000) - Desco were were previously engaged on the project for their M&E input and have extensive knowledge of the location of live circuits, maintenance requirements and the supply requirements to allow CCTV monitoring to continue, and for Boots The Chemist to have an uninterrupted power supply.

4) Site security (£103,500) - site security had previously been delivered by Intu Retail Services Limited, another of the wider intu group of companies and one which has now gone into administration . The intention is that the security services will now be delivered by the Council's in-house team but it has been agreed with the Company's Administrators that there will be an interim period for an orderly handover of the services so that the Council can ascertain the extent and scope of its requirements. The proposed budget for security will include an element of service costs to be paid to the Company's administrators, to continue site security up to 31st July 2020, after which time the Councils internal security team will provide this service up to 31st October 2020.

**Other Options Considered:** As the control and responsibility for this building now sits with the Council there are no other options at this moment in time.

**Background Papers:** None

**Published Works:** None

**Affected Wards:** Castle

**Colleague / Councillor Interests:** None

**Any Information Exempt from publication:** Yes

**Dispensation from Financial Regulations:** Yes

**Exempt Information:**

**Description of what is exempt:** Finance comments appendix

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

**3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).**

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it may prejudice future contractual negotiations

**Documents exempt from publication:**

200723 - BMSC Health Safety Finance Comments.docx

**Use of Consultants**

Number of Days:100  
Rate per Day:600  
Total value:60000  
Start date:27/07/2020  
End date:31/10/2020

**Reason for using a consultant:**

The consultants named within this report were previously engaged on the project and over the duration of the demolition have obtained extensive knowledge of the site. There skills and knowledge are essential to making this site safe and to procure such services on the open market would remove this existing knowledge from the site and would be a lengthy exercise which is not an option.

**Other options considered:**

Appoint consultants from an established framework - this approach would loose the existing knowledge of the site and would be time consuming.

**Name of consultant:**

Desco Mechanical and Electrical and MPN Structure

**Reason for selection?**

They have an extensive knowledge of the site

Has the consultant previously completed work for the City Council?	Although these consultants were previously engaged on the project, Nottingham City Council had no direct involvement with them, however the Council are aware that Desco are currently working on the library project for a third party.
Specific activities to be undertaken by the consultant are:	<p>Mechanical &amp; Electrical Consultants - to advise on scope of demolition works by SRM and on any further works required to make the site safe from an M&amp;E perspective, thus ensuring maintenance of the electrical supply at the Broadmarsh Shopping Centre to allow the continued operation of CCTV and power to Boots The Chemist.</p> <p>Structural Surveyor - To provide input and advice into the existing structure of the Broadmarsh Shopping Centre and make recommendations to ensure the building is safe.</p>
Period of engagement:	1 -2 months
By what process was the consultant selected?	Selected as a result of their existing knowledge of the site
Consultations:	<p>Date: 17/07/2020</p> <p>Ward Councillors: Sam Webster, Angharad Roberts</p> <p>No concerns raised</p>
	Those not consulted are not directly affected by the decision.
Crime and Disorder Implications:	The emergency works to protect and make safe the site will reduce the opportunities for crime and disorder
Equality:	EIA not required. Reasons: These works are emergency works to make the site safe and have no EIA implications
Social Value Considerations:	N/A
Relates to staffing:	Yes
Relates to Council Property Assets:	Yes
Relates to Building Services:	Yes
Decision Type:	Portfolio Holder
Subject to Call In:	No

The call-in procedure does not apply to the proposed decision because the delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The Chair of the Overview and Scrutiny Committee (or Vice-Chair) in his/her absence has been consulted and agreed both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency.

**Person Consulted: Cllr Anne Peach**

**Consultation Date: 24/07/2020**

As of 31st July 2020 intu will remove site security and any presence on site. This will have health and safety implications for both remaining tenants, who access the service road on the site, and also leave the site unprotected and could potentially endanger the public. In addition, works to reopen the public right of way between Lister Gate and Collin Street need to progress at speed to allow the public to safely access the Southern Gateway of the City.

**Advice Sought:**

**Legal, Finance, Procurement, Human Resources, Property, Building Services**

**Legal Advice:**

This report is seeking authority to enter into a number of contracts without the need for conducting procurement processes. The dispensations are required for operational reasons under Financial Regulation 3.29 so that awards can be made without the need to conduct a quotation process under Contract Procedure Rule 4.1.1. or a tender process (with regard to the SRM contract) under Contract Procedure Rule 4.1.2. The reasons for the need to directly award the contracts are set out in the body of this report and are supported by Legal Services. Given the circumstances surrounding the disclaiming of the Broadmarsh Shopping Centre lease, the Council is now having to ascertain the extent of the liabilities it has been left to face and with the most immediate issue being to determine the safety of a heavily demolished construction site which connects the City by a Right of Way that has had to close, and which also has tenant and third party relationships to manage. The legal implications of not immediately determining the safety of the site, or indeed fully understanding the current structure of the site fully supports the need to dispense from procurement process obligations set out in the Council's Constitution.

Legal Services are assisting and advising with regard to the project as a whole, including the preparation of contract documents for these initial works and services, and any TUPE related implications as referred to in the HR advice.

Advice provided by Naomi Vass (Senior Solicitor) on 22/07/2020.

**Finance Advice:**

This advice is exempt from publication and is contained within an exempt appendix.  
Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 24/07/2020

**Procurement Advice:**

There are no procurement implications with the short term recommendations set out within the report. A safe secure site, continuity of short term works and ongoing support and advice from existing consultants is critical at this time, in order to guide the Council through the complex and evolving position surrounding intuBroadmarsh Shopping Centre. Advice provided by Sue Oliver (Category Manager - Procurement) on 22/07/2020.

**HR Advice:**

Discussions with the service indicate a longer term plan around resourcing. Proposals to utilise specialist, external resources on a short term basis are therefore supported.

Regarding the Security provision at site, consultation with affected individuals and relevant representatives will need to be undertaken in relation to a potential transfer in (via 'TUPE') of those individuals employed to provide a security service, in to the Council's employment. The HR team will assist management in understanding the potential liabilities, risks and contractual requirements of this process, under TUPE legislation.

Advice provided by Paul Slater (Service Redesign Consultant) on 21/07/2020.

**Property Advice:**

Following two inspections of the site, specific to Strategic Assets & Property, it is evident that works are required to make both the site and the structure safe. The main safety concerns are for visitors and third parties who require access to the service deck and also for keeping trespassers out of the site. The works/appointments proposed in this decision are essential to allow the Council to fully understand the site that it is now in control of. All Council personnel involved need the information and experience of both SRM and the intu security staff to ensure that the whole site can be managed as required and more importantly that it is safe to do so. The structural survey is critical to that as we need to ensure the service deck is safe to use and also that the City of Caves attraction can open as soon as possible. Consequently, Strategic Assets & Property fully supports this decision.

Director - Strategic Assets & Property 22/07/2020  
Advice provided by Kate Morris (Governance Officer) on 24/07/2020.

**Building Services Advice:**

Building Services fully support the proposals and are actively involved in PPM on site. Advice provided by Trevor Bone (Property Maintenance Manager) on 21/07/2020.

**Signatures:**

David Mellen (Leader/ PH Regeneration, Schools, Communications)
SIGNED and Dated: 31/07/2020
David Mellen (Leader/ PH Regeneration, Schools, Communications)
NOT SIGNED
Chris Henning (Corporate Director for Development and Growth)
SIGNED and Dated: 30/07/2020
Laura Pattman (Strategic Director of Finance) - Dispensation from Financial Regulations
SIGNED and Dated: 29/07/2020
Chief Finance Officer's Comments: