

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

4066

Author:

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Department:

Development and Growth

Contact:

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Subject:

Broadmarsh Car Park Development Contract Extension

Key Decision (decision valued at more than £1million):

Yes

Total Value:

£2,995,627 (Type: Capital)

Decision Being Taken:

1) To extend the current Galliford Try contract for the Broadmarsh development to include the external works around the perimeter of the Car Park and Bus Station. 2) To grant dispensation (in accordance with Financial Regulation 3.29) from the need to conduct a tender process, in accordance with Contract Procedure Rule 4.1.2.

Reasons for the Decision(s)

This decision is needed to minimise the construction risk and costs in relation to the Broadmarsh Car Park development and associated external works, and ensure the earliest possible delivery of the development. Initial packages of work to deliver new public realm developments in the Broadmarsh area are now underway. These packages do not, however, include external works around the immediate perimeter of the new Car Park development, where there are significant differences in level to overcome between the adjacent highway and public realm space, and the new building. The complex nature of the engineering and construction works required around the building perimeter (in particular, on Carrington Street, Collin Street and Middle Hill) are such that they have to be carried out from within the confines of the existing site boundaries established by Galliford Try. In its role as Principal Contractor for the Car Park, Galliford Try has knowledge and understanding of the building with which these external works need to interface and are, therefore, best placed to carry out the works. Galliford Try has programmed works to run concurrently with their existing construction programme for works within the building, which will enable the Car Park building to open at the earliest possible date. It would not be possible for a different contractor to safely undertake these works without significant physical and contractual interfaces, which would result in increased cost, commercial risk and in delayed delivery. The prices submitted for the external works have been assessed by the project's appointed cost consultant and are deemed to be fair and reasonable, and represent value for money. Therefore, it is proposed that the external works immediately around the new building perimeter are instructed to Galliford Try through a Deed of Variation to their original contract, with dispensation from Contract Procedure Rule 4.1.2 and the requirement to carry out a tendering process applied to this award. Delay in entering into this contract extension will result in programme delays and associated cost impacts. The budget for this capital work is provided through an allocation from the Transforming Cities: Tranche 2 grant funding, which was approved by the Executive Board on 16 June 2020.

Other Options Considered:

1) To undertake an open tender procurement exercise for a contractor to deliver the works as part of the wider public realm works. However, the works set out in the decision immediately surrounding the Car Park are integral to the opening of the building and can only safely be delivered from within Galliford Try's site current boundaries. Engaging a new contractor to commence works after Galliford Try has concluded its contract would delay the opening of the facility and increase commercial risks and costs. For these reason, this option was rejected.

Background Papers:

None

Published Works:

Minutes of the Executive Board (16 June 2020): Item 8 - Transforming Cities Programme
(<https://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=8431&Ver=4>)

Affected Wards:

Castle

Colleague / Councillor Interests:

None

Dispensation from Financial Regulations: Yes

Consultations: Those not consulted are not directly affected by the decision.

Crime and Disorder Implications: This decision is not considered to have any specific crime and disorder implications. The scheme design has been developed to reduce and remove opportunities for crime and disorder.

Equality: EIA not required. Reasons: The decision does not set out proposals for changes to a policy, service or function.

Social Value Considerations: Not applicable, as the value of the contract will be below the EU threshold.

Decision Type: Leader's Key Decision

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: Chair of the Overview and Scrutiny Committee
Consultation Date: 26/11/2020
The work needed is around the perimeter of the car park and bus station and, due to how it ties in with the building (with complicating level differences to address), is required in order to enable access to the building. To avoid complications by having a new contractor working within the boundary of the Galliford Try (GT) site, it is much better in respect of logistics, risk management, time and cost for GT to carry out these works from within their construction site. Exemption from call-in is sought because any delay in confirming these works will result in an elongation of the contract timetable with GT, with an associated increase in costs.

Advice Sought: Legal, Finance, Procurement

Legal Advice:

There are no significant legal concerns arising from this report. The proposal is to extend the current contract for the construction of the Broadmarsh car park to include the certain public realm works that directly impact on the car park and for which the existing contract and contractor is deemed the most suitable option both technically and financially for the Council. Such an extension falls with Regulation 72(5) Public Contracts Regulations 2015 and is considered a legally compliant variation.

To extend the contract will require a dispensation from the Council's constitutional requirements and this is permitted by virtue of Financial Regulation 3.29 for operational reasons. Those reasons have been set out by the report author and can be supported by Legal Services.

In addition, it should be noted that to delay the award of the extension to this contract could incur financial consequences for the Council due to delays in programmes, incurring additional time costs for contractors and in the supply chain, where there are lead-in times for specialist materials.

The funding for this work and the delegation to the Corporate Director of Development and Growth to award the contract is set out in the Transforming Cities Executive Board report from 16 June 2020.

Advice provided by Naomi Vass (Senior Solicitor) on 12/11/2020.

Finance Advice:

The value and funding within this decision has already been approved (by the Executive Board meeting of 16 June 2020) and is included in the current capital programme. The Transforming Cities funding for this expenditure is an external grant, which requires no match funding from Council resources. Therefore, following the approval of this decision, the current capital programme will not require any amendment.

This decision is deemed outside the amended scheme of delegation, as it is not new capital expenditure, and the expenditure is funded through ring-fenced grant where Council match funding is not required.

Dispensation from financial regulations is required for operational reasons. The rationale for this dispensation is detailed in the body of the report and, on the basis that value for money can be evidenced, the dispensation is supported.

Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 23/11/2020.

Procurement Advice:

There are no procurement issues with the decision being sought. The contract for the works was awarded subsequent to a compliant tender procedure having been carried out, and the value of the proposed variation is allowable in accordance with the provisions of Public Contracts Regulation 72(5).

Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 12/11/2020.

Signatures:

David Mellen (Leader/ PH Regeneration, Schools, Communications)

SIGNED and Dated: 04/12/2020

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| Chris Henning (Corporate Director for Development and Growth) |
| SIGNED and Dated: 03/12/2020 |
| Theresa Channell (Head of Corporate and Strategic Finance) - Dispensation from Financial Regulations |
| SIGNED and Dated: 02/12/2020 |
| Chief Finance Officer's Comments: |