

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	4867
Author:	Eddie Curry
Department:	Resident Services
Contact:	Eddie Curry (Job Title: Head of GreenSpace & Natural Environment, Email: eddie.curry@nottinghamcity.gov.uk, Phone: 01158764982)
Subject:	Colwick Country Park Marina Pontoon Replacement Project
Total Value:	£550k (Type: Capital)
Decision Being Taken:	<p>Approve:-</p> <ol style="list-style-type: none">1. That the works are required, not only for Health and Safety reasons but also to sustain income that supports the parks maintenance as detailed in the attached briefing note.2. The completion on the Pontoon Replacement Programme that commenced in 2019 (phase 1); and approve the delivery of phase 2 & 3.3. To agree the funding proposals for the works to be completed. As set out in section 4.1 of the attached briefing note.4. Note that the procurement of suppliers has been undertaken in accordance with the procurement procedures.5. Note that this project is appropriate use of capital investment, with a return rate that that not only removes subsidy but also enables the development of a sinking fund for future repair works.
Reasons for the Decision(s)	<p>The marina at colwick country park is an essential income generating facility. The income received contributes towards the staffing and maintenance of the entire Country park and without a fully operational marina the park will need to rebalance it's staffing structure around the reduced funding that is available.</p> <p>The marina pontoons now require repair and replacement as they are becoming a health and safety concern.</p>
Briefing notes documents:	Briefing Note Colwick Country Park Marina Pontoon Replacement Project 09-02-23 ML (004) cc.pdf
Other Options Considered:	The option to not carry out the work has been rejected as this will result in loss of income for the country park and a subsequent reduction in maintenance and safety standards within the park.

Background Papers:	N/A
Published Works:	N/A
Affected Wards:	Dales
Colleague / Councillor Interests:	None.
Consultations:	<p>Date: 13/01/2023</p> <p>Ward Councillors: David Mellen</p> <p>Cllr David Mellen has approved the principle of the project subject to confirmation that all the funding is in place for the project.</p> <p>Those not consulted are not directly affected by the decision.</p>
Crime and Disorder Implications:	The project will help to maintain income that is used to upkeep the grounds maintenance standards within the country park. Without this income the service will need to be reduced. The reduction in grounds maintenance standards could increase the perception of abandonment which in turn could lead to an increase in anti social behaviour within the park.
Equality:	EIA not required. Reasons: No EIA has been produced as there is no negative impact resulting from the delivery of the project.
Relates to Council Property Assets:	Yes
Decision Type:	Portfolio Holder
Subject to Call In:	Yes
Call In Expiry date:	27/02/2023
Advice Sought:	Legal, Finance, Procurement, Property, Building Services

Legal Advice:

We have previously been told that this proposal seeks a decision to fund the replacement of the Colwick Park Marina pontoons and the creation of consequential funding arrangements. In respect of the proposed delegations for entering into contracts, this must still be done in accordance with the Council's Constitution.

The Background information refers to an ongoing Health & Safety risk if the pontoons remain as they are; this gives rise to a potential legal risk for the Council both in their continued use or if they are not sufficiently well secured if access is gained and injury and/or loss occurs.

Legal Services have not reviewed the proposed contract for the work or the proposed "standard industry" guarantee and therefore cannot offer a view on what, if any, legal risks arise from that documentation. Legal Services have not seen Appendix 1 so can't comment on the suggestion that the works will remove the Health & Safety risk but, as a general observation, it is highly unlikely that works completely remove Health & Safety risks but they may substantially reduce the risks of injury and/or loss.

Legal Services have now been made aware that proposed contract changes were reviewed by an acting Property & Maintenance Manager.

Advice provided by Anthony Heath, Senior Solicitor, 23rd December 2022.

Revenue Implications:

The effect on the Revenue Budget is set out in the report. To summarise:

The Marina currently contributes £121k net income to the park. Without the net revenue from the Marina the Park would cost the City Council £128k as compared to a budget of -£2k

The 15 year repayment plan will bring the park back into surplus in year 3 and exceed current budgeted surplus, whilst the 10 year repayment plan will bring the park back into surplus in year 5 in line with the current budget.

The additional net costs of £36k in year 1 and £17k in year 2 in the 10 year plan will be met from within the overall Parks and Gardens revenue budget.

The additional net costs of £26k in year 1 and £7k in year 2 in the 15 year plan will be met from the overall Parks and Gardens revenue budget.

Advice provided by Paul Hector
Senior Commercial Business Partner
Date 9th February 2023

Capital Implications:

The Capital Strategy due to be approved at February 23 Executive Board confirms revenue should be funding of last resort. However, due to the Councils financial position no alternative funding can be identified (i.e. no new borrowing, capital receipts earmarked for temporarily decommissioned schemes and no further opportunities for external grant), therefore a request has been made to use the Forward Maintenance Plan (FMP).

As detailed in the body of the report this decision uses the following funding for the £550k of planned expenditure:

- . £170k virement of current approval for Colwick pontoons, approved to be funded from the Forward Maintenance Plan (FMP) i.e. revenue,
- . £50k of S106 monies to be paid to the City for Parks & Open Spaces,
- . £200k Local Transport Grant, this element grant is secured and not yet committed and can therefore be transferred to this project,
- . £130k FMP.

When this project was originally presented to Capital Board there was a request that the £130k element of the FMP be paid back into Corporate resources to enable future maintenance. This business case however, proposes to repay the full £300k of FMP.

The conditions of the LTP grant are as such that it is classified as a non-ringfenced capital grant, which means it could be spent on non-transport related capital schemes. However, the Council's approved Capital Strategy stipulates that Transport grant is ringfenced for schemes with Transport objectives, to ensure the grant is spent in the spirit it was intended.

This scheme is being presented to February's Capital Board and requires Capital Boards endorsement prior to being added to the Capital Programme.

Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 29/12/2022.

Procurement Advice:

Decisions (1)-(4) & (6) relate to management and funding of the scheme, and are thus outside of Procurement's remit. In regard to decision (5) it must be noted that this is a retrospective approval; an open tender was run by the Procurement Team in accordance with Contract Procedure Rules which concluded on the 3rd August 2022 with a preferred contractor identified, and this decision therefore seeks approval to enter into the contract so the works can begin. Given the time lapse between submission of the tender and when works are likely to start, it is entirely possible the contractor may make a claim for additional monies to cover increase in costs of materials etc. As the contract value is below the threshold at which Part 2 of the Public Contracts Regulations 2015 would apply this is not necessarily problematic, however care should be taken in assessing any such request to ensure that the project still represents value for money to the Council. Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 06/01/2023.

Property Advice:

We understand that repair of the pontoons will reduce significant Health & Safety risks and enable income generation to be preserved. If not already done, we recommend that current marina charges are reviewed to ensure they are consistent with market rates and that income is being maximised. There are no other property implications arising from the proposed replacement of the pontoons. Advice provided by Christine Read (Property Business Partner) on 22/12/2022.

Building Services Advice:

Building Services supports the pontoon replacement which will remove the serious H&S issues that exist with the current pontoons and is already engaged with the client in delivery of the replacements. Advice provided by Trevor Bone (Property Maintenance Manager) on 12/12/2022.

Signatures

Audra Wynter (Portfolio Holder for Highways, Transport and Parks)
SIGNED and Dated: 18/02/2023
Frank Jordan (CD Communities Environment Resident Services)
SIGNED and Dated: 17/02/2023