

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

2317

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Development

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Subject:

Flood Alleviation to Properties in Top Valley. Installation of Property Level Protection Measures.

Total Value:

£100,000 (Type: Capital)

Decision Being Taken:

1. Approval of the delivery of a project to increase the resilience against flooding of 30 homes in Top Valley. These measures, known as property level protection, can include fitting demountable flood boards, flood resistant doors, "smart" air bricks and non-return valves on drains. This capital spend of £100,000 in 2015/16 will be fully funded by Central Government through Flood Defence Grant in Aid (FDGiA).
2. To approve dispensation under Financial Regulation 3.29 to dispense with Contract Procurement Rule 2.1.2 to permit Whitehouse Construction to undertake the work.
3. Authority to negotiate the terms and accept the FDGiA grant for the purpose of carrying out these flood alleviation works.

Over 100 domestic properties across the City suffered internal flooding during an intense storm in July 2013. This decision is the commencement of measures to assist these citizens.

The City Council, in its role as Lead Local Flood Authority (LLFA) submitted bids for Flood Defence Grant in Aid (FDGiA) contributions towards a number of flood risk management schemes. One of the bids was for a scheme to install property level protection measures to 70 properties, where a long term capital scheme is not feasible for either technical or financial reasons.

This scheme was listed within the Nottingham City Local Flood Risk Management Strategy, which was approved by Full Council in March 2015. The FDGiA funding has been allocated for 2015/16 and 2016/17, but this decision relates only to work to be delivered in 2015/16.

The provisional allocation of FDGiA funds is £100,000 in 2015/16. However this has still to be approved by the Environment Agency, so a full Project Appraisal Report (PAR) to justifying the investment has been submitted. The works will not commence until this funding is confirmed. Staff time in preparing the bid, PAR, and liaising with the owners has been met from existing budgets. It is a condition of FDGiA funding generally that part of the scheme is locally funded; the exact proportion of the contribution depends on a number of variables so differs from scheme to scheme. For this scheme the staff time already expended on this schemes forms the local contribution.

Due to the nature of the work, dispensation from financial regulations is sought to grant the work to a single supplier. Whitehouse Construction have been selected because of their experience and expertise in delivering these type of works. It is anticipated that best value can be delivered for the following reasons;-

1. Contractors price work on risk, so if competitive tenders were sought prior to surveying the properties, it is likely that overall higher prices will be received.
2. Continuity of work from initial contact with the owner to completion of the works assists in reducing overall costs. Experience from other authorities who have carried out property level protection works is that continuity ensures efficient delivery, reduced disputes with householders, and provides a better end product.
3. As one of the market leaders in this field of work, Whitehouse Construction will be keen to maintain their reputation. By going to a single supplier, their reputation is reliant on both advising of the correct measures and ensuring that they are fitted correctly.
4. The Contractor provides a single point of contact for owners and residents throughout the process, simplifying communications and programming the works.
5. The Contractor is also responsible for managing customer expectation. Agreeing a clear scope of work with the owner prior to commencement, reduces the likelihood of cost escalation.

Prices will be benchmarked against information published by the Environment Agency regarding the average cost of fitting Property Level Protection. The cost at individual properties may vary considerably from this average, as it depends of the exact nature of the house to be protected, but for the initial batch surveyed so far as part of this scheme, the average estimate is less than the published figure.

The risk of cost escalation will be reduced by the form of contract, by both parties working in a spirit of mutual trust and collaboration. Under the proposed form of contract (NEC3 option C) open book accounting principles apply, and the contractor will be paid actual costs, in terms of labour, plant, and materials, plus a bonus to incentivise efficient working.

In addition the Environment Agency are looking for efficiency savings across the entire flood defence budget. Delivering this work in a timely manner in partnership with Whitehouse Construction can contribute to the required savings.

**Ownership and future maintenance of the flood defence measures remains with the property owner. Therefore no work will be carried out on their properties without their written agreement.**

**In essence the contractor is providing a full service. They have a vested interest in seeing the scheme through from beginning and very end and maintain strong customer focus with the affected citizens. Therefore the dispensation from financial regulations strongly supports the Council's Citizen Focus.**

**Other Options Considered:**

**1. Do nothing.**  
 There is no statutory duty for the Council to install flood resistant measures to these properties, however given the topography of the area it is likely that these properties will flood again in the future. However the Council does have a duty to manage the flood risk from surface water, and so the Councils Local Flood Risk Management Strategy included an action plan to assist those citizens at greatest risk of localised flooding. Therefore the do nothing option would not support this approved strategy.

**2. Capital scheme to improve the sewer capacity in the area.**  
 Rejected because of the high capital costs, which would have required a substantial local contribution.

**3. Rather than a dispensation from financial regulations, seek competitive tenders.**  
 If this course of action were to be pursued then this would miss the funding window imposed by the Environment Agency for the expenditure of £100,000 in 2015/16. (However for the further work funded in 2016/17 it is proposed to review the procurement strategy).

**Background Papers:**

N/A

**Published Works:**

- Nottingham Local Flood Risk Mangement Strategy  
 - Formal S19 Flood investigation; Bakewell Drive, Tenter Close and Tobias Close, Top Valley.

**Affected Wards:**

Bulwell Forest

**Colleague / Councillor Interests:**

**Dispensation from Financial Regulations:**

Yes

**Consultations:**

**Date: 18/08/2015**  
**Ward Councillors: Eunice Campbell, Alan Clark, Nick Mcdonald**  
**Scheme supported by Ward Councillors.**

**Date: 18/08/2015**  
**Other:Community**  
 Community event at Top Valley Community Centre, at which citizens were provided with information regarding the scheme. Those residents of flooded properties who were unable to attend this event have been subsequently contacted individually

Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:**

There are no crime and disorder implications in the proposals. Replacement doors will give residents the same or better level of protection as their existing doors

**Equality:**

EIA not required. Reasons: No equality implications. The sole criteria for selecting properties where measures are to be installed is flood risk.

**Social Value Considerations:**

Not applicable - the value of services does not exceed EU threshold .

**Decision Type:**

Portfolio Holder

**Subject to Call In:**

Yes

**Call In Expiry date:**

05/02/2016

**Advice Sought:**

Legal, Finance, Procurement

**Legal Advice:**

This report does not raise any significant legal issues as the value of the works is below the applicable EU procurement threshold. The report author must satisfy himself as to the capability of the contractor to undertake this work and to deliver value for money. It must also ensure the EA will agree to the City Council making a direct award to the contractor. Although it is below EU threshold the EA may prescribe its own minimum requirements. The City Council needs to put in place appropriate agreements with home owners to ensure so far as possible that the City Council does not remain responsible for the works beyond a reasonable warranty period. Legal Services can assist with this documentation. Advice provided by Andrew James (Team Leader Contracts and Commercial) on 17/12/2015.

**Finance Advice:**

The cost of this decision is estimated to be £100,000. A bid for Flood Defence Grant in Aid has been submitted to the Environment Agency but this has not yet been approved. No work should commence until formal approval is received. It is anticipated the total cost of the work will be met by grant. The City Council contribution to the scheme will be in the form of staff time preparing the Project Appraisal Report for the grant bid and liaising with the property owners, and this will be met from existing staffing budgets.

Advice provided by Jim Driver (Finance Service Partner) on 19/11/2015.

**Procurement Advice:**

Approval to dispense with Contract Procedure Rule 5.1.2 in accordance with Financial Regulation (3.29) is requested. The contract must demonstrate value for money and it does not present any funding procedure issues. Advice provided by John Watson (Category Manager) on 31/12/2015.

**Signatures**

<b>Jane Urquhart (Portfolio Holder for Planning and Housing)</b>
<b>SIGNED and Dated: 28/01/2016</b>
<b>David Bishop (Deputy CE, CD for Development and Growth)</b>
<b>SIGNED and Dated: 25/01/2016</b>
<b>Theresa Channell (Head of Corporate and Strategic Finance) - Dispensation from Financial Regulations</b>
<b>SIGNED and Dated: 06/01/2016</b>
<b>Chief Finance Officer's Comments:</b>