



Officer Decision Record – Key Decision

Key decisions taken by an officer are subject to the 5 day call in period from circulation to Members, and therefore the decision will be released for implementation following the call-in period and no call in being received

1. Cabinet date and copy resolution this key decision relates to

Cabinet approved on the 21st September 2022 (DN.47):

1. That the completion of the acquisition of Freshney Place be noted.
2. That delegated authority be given to the Executive Director Environment, Economy, and Resources, in consultation with the Leader of the Council authority to develop the Freshney Place Leisure Scheme as the sole developer and conclude negotiations with third party landowners.
3. That the Executive Director Environment, Economy, and Resources be authorised in consultation with the Leader of the Council to take all preliminary actions in connection with the exercise of compulsory purchase powers in connection with property interests in the vicinity of Freshney Place required for overall delivery of the scheme and its wider regeneration aims, if the Council is unable to agree terms through the ordinary course of negotiations, accepting that the final decision of completion of any such order rests with Cabinet and will be subject to a further report.
4. That the Executive Director for Environment, Economy, and Resources be authorised to submit a planning application in support of the Freshney Place Leisure scheme.

5. That delegated authority be given to the Executive Director for Environment, Economy, and Resources in consultation with the Leader of the Council to commence the procurement of a professional delivery team, including the demolition and building contractor to implement Phase one of the scheme (subject to planning consent) and (having regard to recommendation 6) to deal with all matters to award, implementation, and mobilisation.
6. That delegated authority be given to the Executive Director for Environment, Economy, and Resources in consultation with the Leader of the Council following the procurement process to appoint a contractor for phase one and enter into a Pre-Construction Services Agreement, noting that the further appointment for phase two of the works will rest with Cabinet and be subject to a further report.
7. That the Assistant Director Law, Governance and Assets (Monitoring Officer) be given authority to execute and complete all requisite legal documentation in relation to the matters outlined above.

2. Subject and details of the matter (to include reasons for the decision)

A contractor is required to undertake the design, procurement, construction and completion of a New Market, Retail and Leisure Development situated at Freshney Place, Grimsby around Market Square. The requirement is split into two Phases. Phase one – Pre-Construction Services Agreement and phase two – the Works.

This Officer Decision Record seeks approval to appoint a contractor for phase one and enter into a Pre-Construction Services Agreement.

Appointment for phase two of the works will rest with Cabinet and be subject to a further report.

The Estimated whole life value of phase one and phase two is £21,170,138.07 although this may change depending on the outcome of the phase two work.

The maximum length of the Pre-Construction Services Agreement is 6 months.

A further competition was run under the PAGABO Major Works Framework, Lot 2 (£15m - £30m).

Following conclusion of the evaluation process, Morgan Sindall Construction & Infrastructure Ltd have been identified as the most economically advantageous

tenderer, and so approval is sought to award the Pre-Construction Services Agreement to Morgan Sindall Construction & Infrastructure Ltd.

3. Decision being taken

That the Executive Director for Environment, Economy, and Resources in consultation with the Leader of the Council approves award of the Pre-Construction Services contract to Morgan Sindall Construction & Infrastructure Ltd for a maximum 6 months.

4. Is it an Urgent Decision? If yes, specify the reasons for urgency. **Urgent decisions will require sign off by the relevant scrutiny chair(s) as not subject to call in.**

No.

5. Anticipated outcome(s)/benefits

The Pre-construction Services Agreement is awarded via a further competition under the PAGABO Major Works Framework, Lot 2 (£15m - £30m) to Morgan Sindall Construction & Infrastructure Ltd for a maximum of 6 months.

6. Details of any alternative options considered and rejected by the officer when making the decision (this should be similar to original cabinet decision)

Given the Council has recently acquired Freshney Place for regeneration purposes, including delivery of the leisure scheme, it was not considered there were any prudent other options at this stage. Progressing planning and procurement was the next natural part of the scheme but until such time as a planning permission was in place (or not) and a reliable tender was secured, the Council was not committed to major capital spend. If there were any challenges at these stages, then other options would be considered at that the time.

7. Background documents considered (web links to be included and copies of documents provided for publishing)

Cabinet Decision (DN.47) Freshney Place Leisure Scheme.

8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons

No.

9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)

No conflicts of interest were identified.

10. Monitoring Officer Comments (Monitoring Officer or nominee)

The decision is consistent with the will of Cabinet and the delegated authority. The procurement exercise has been conducted so as to comply with the Council's policy and legal obligations, specifically in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015 and supported by relevant officers. Clearly a framework approach is considered good practice and comes with its own efficiencies. Legal Services will support the completion of the contractual documentation on award and continue to support the overall project.

11. Section 151 Officer Comments (Deputy S151 Officer or nominee)

The costs of the contract are to be met from within the Freshney Place Development capital scheme budget approved as part of the Council Capital Investment Programme

12. Human Resource Comments (Head of People and Culture or nominee)

There are no direct HR implications.

13. Risk Assessment (in accordance with the Report Writing Guide)

The key risks associated with progressing procurement of a construction contractor and submitting a planning application are:

- additional costs relating to the development arising;
- the Council not been able to appoint a suitable construction contractor;
- scheme designs not being achievable;
- not securing, or delayed planning approval;
- delays to the scheme putting funding at risk; and,

- loss of occupants of the leisure scheme due to delays and costs.

The Council has appointed a professional delivery team to support this project and will be procuring an experienced contractor to supplement the existing team, who have experience of developing schemes such as this one. In addition, the team has appointed specialist structural, mechanical & electrical, concrete and building surveyors who have undertaken surveys, which have informed both the proposed procurement documents (that will be used in the procurement process for a construction contractor), and the scheme designs presented within this report, whilst also providing assurance regarding potential additional costs (including inflation and risk contingencies) that might arise. However, it is important that the project proceed as planned, because delays in both procurement and planning will enhance the Council's risk of increased costs, should inflation and supply chain issues continue to increase.

The risk of not securing an appropriate contractor could arise if the market were to suffer a downturn, however, the Council's professional delivery team advise that the current market position is still relatively strong, as evidenced by the procurement process undertaken. Therefore, it is important that the Council appoints a construction contractor as soon as possible to ensure they are in situ in case the market should deteriorate. In addition, getting a contractor on board as soon as possible will enable further works to commence that will provide further assurances regarding the project's timeline and costs.

The scheme has been designed based on various elements of analysis, including structural surveys. However, the planning process is an exhaustive exercise that generates further comment and input from various parties. Submission of the planning application for the scheme, exposed the designs to this analysis and provided assurance that the scheme is deliverable.

A professional team has designed the scheme, including planning consultants took the project through the planning process and achieved a successful outcome and permission was granted in February 2023.

The planning process ensured further consultation and analysis was undertaken on the scheme's design, alongside further work with Parkway Cinemas to engage with their customer base, which has further informed the project. Appointment of the

contractor will ensure the timeframe required to deliver the project is achieved. As highlighted within this and previous reports, delivery of the project within the agreed timeframe is critical from both a funding perspective, but also to ensure the revitalisation of the town centre that is planned can commence as soon as possible.

As outlined above, the Council has procured a professional delivery team to support the development of the project who have undertaken analysis of the proposed costs and programme and advised that this scheme can be delivered in budget and on time. Issues such as inflation and interest rates are still risks facing the project although contingency for these issues have been included. However, given the wider economic pressures facing projects such as, again, primarily inflationary risks and interest rates, it is recommended that the Council appoint the contractor as soon as possible to provide further assurance that the scheme will progress according to plan. Also, this will support the scheme's wider aspiration of helping dilute the current over-reliance on retail space within Freshney Place, providing a more diverse offer, which would enable it to tap into the leisure and food & beverage market and open it up to different tenants, therefore provides greater opportunity to attract and retain tenants.

14. Has the Cabinet Tracker been updated with details of this decision?

Yes.

15. Decision Maker(s):

Name: Sharon Wroot

Title: Executive Director, Place and Resources

Signed: REDACTED

Dated: 14.03.23

16. Consultation carried out with Portfolio Holder(s):

Name: Councillor Philip Jackson

Title: Leader of the Council

Signed: REDACTED

Dated: 15th March 2023