



Report to: Full Council
Date of Meeting: 1 March 2007
Report from: Head of Regeneration
Title of Report: Mechanics Institute
Agenda Item Number: 11

1. PURPOSE & SUMMARY

1.1 The purpose of this report is to inform full Council that the Leader of the Council has made a decision using the urgent powers procedure as set out in Part 4D Paragraph 4 of the Council's constitution.

The decision involved the awarding of a contract for completion of the refurbishment of the former Mechanics' Institute to Lumsden & Carroll, following Holly Construction entering into administration.

2. CONSULTATION

2.1 The following service areas and stakeholders have been consulted in connection with this report:

- i. Portfolio Holders for Regeneration and Finance
- ii. The Chief Executive
- iii. The Director of Resources
- iv. The Head of Legal and Democratic Services

3. CORPORATE PLAN & PRIORITIES

The activities outlined in this report directly support Priority 4 of the Corporate Plan (Regenerating the District) through the refurbishment of the Mechanics Institute as a one stop shop for learning and enterprise in the Town Centre.

4. IMPLICATIONS

4.1 Financial and value for money

Financial issues are described in full in section 5 of the report. There are not likely to be any negative financial implications arising from the decision taken that is outlined in this report, and it is expected that the scheme affected will be delivered within the agreed budget. This will be closely monitored by the Head of Regeneration and reported back to the Executive.

Value for money considerations were critical in the decision to use the urgent powers procedure, as this enabled the Council to minimise disruption by retaining the existing workforce (and the knowledge they had) and avoid the costs of a new procurement and recruitment exercise.

The terms of the new contract, detailed in full at section 5, also represent value for money, as they are on a 'cost plus' basis where the contractor is reimbursed at the cost of the works undertaken, plus a management and profit allowance of 9.75%, where standard rates for this kind of contract are at around 12%.

4.2 Legal

The decision that was taken under the urgent powers procedure was to enter into a contract for the completion of the refurbishment of the former Mechanics' Institute.

4.3 Personnel

There are no personnel implications arising from this report.

4.4 Other Services

There are no implications for other services arising from the report.

4.5 Diversity

The refurbishment of the Mechanics Institute will provide, within the heart of the Town Centre, learning opportunities for all, being provided by the statutory, private, and community and voluntary sectors, catering for all age groups. This range of activities will be easily accessible to all, including traditionally hard to reach groups, and as such will help to promote diversity.

4.6 Risk

Risk management considerations were critical in the decision to take urgent action. Considerable risks, relating to the finances, funding, workforce, timescales, and impact on partners, would have been attached to following standard procurement procedures.

4.7 Crime and Disorder

There are no crime and disorder implications arising from this report.

4.8 Other Implications

There are no other implications arising from this report.

5. BACKGROUND, POSITION STATEMENT & OPTION APPRAISAL

- 5.1 In July 2006, the Council entered into a contract with Holly Construction for the refurbishment of the former Mechanics' Institute as a centre for learning and enterprise in the heart of the Town Centre. The £1.3m scheme attracted funding from a range of sources, including the Council's own capital programme, and the Single Programme, as part of the overall project for the regeneration of the Town Centre (which also includes the Civic Heart development). As part of the procurement process (which was undertaken by Capita Symonds as project managers acting on behalf of the Council) as well as tender price, the track record and capacity of the tenderers was considered.
- 5.2 After initial problems with the condition of the structure of the building, refurbishment work had been progressing well, both physically and in the levels of interest in occupancy. Various groups have expressed an interest in, or confirmed that they will be, occupying the building, including the Enterprise Agency (who will manage the building on behalf of the Council at no net cost or surplus to the Council), the Durham Business Club, Learndirect, Chester-le-Street Heritage Group, and local schools. The estimated date of completion of the project was 16th March 2007.
- 5.3 On 23 January 2007, Holly Construction went into administration, and laid off, with immediate effect, all of their employees who had been working on the scheme. There had been no prior warning of any problems. Work on site stopped immediately, and immediate action was taken to make the site safe and secure. Further financial details are attached on Appendix 1 (green paper).
- 5.4 On 23 January 2007, the Council was able to establish that the Administrator acting on behalf of Holly Construction did not wish to pursue the contract. In any event, the contract catered for this eventuality, and Holly Construction were therefore in breach of contract. The Leader of the Council, the relevant portfolio holders and Chair of the Overview and Scrutiny Panel, and Chief Officers (including the Chief Executive and Director of Resources as s.151 Monitoring Officer) were kept informed of developments.
- 5.5 It was agreed that urgent action was necessary for a number of reasons, specifically:
- The risk of losing Single Programme funding towards the scheme, which is required to be spent in 2006/7;
 - The impact on prospective tenants who had been previously advised of the proposed completion date, some of whom were serving notices on their existing premises;
 - The risk that the staff involved in the project would have found alternative employment, thus losing the detailed project knowledge that they possessed, with resulting time and cost implications;
 - The critical stage of the project, with gas mains due to be installed the following week – a postponement of this would have led to a delay of months in practice.

5.6 On 24 January 2007, contact was made with Lumsden & Carroll, who are the Council's main contractors on the adjacent Civic Heart scheme, to ascertain their willingness and availability to complete the contract on the following specific terms:

- That, as a variation to the existing contract with Lumsden & Carroll for the Civic Heart work, they complete work on the Mechanics' Institute refurbishment on a cost plus basis (further contractual details on green paper).
- That a maximum cost of £350,000 was specified in the variation. This ensures that the scheme is delivered within budget. Should this not be possible, for unforeseen reasons, or following the detailed discussions with the administrators of Holly Construction, this will need the specific approval of the Council's Executive.
- That the work be undertaken on the partnering principles of the existing Civic Heart contract, which is on an 'open book' basis to aid transparency and accountability.
- That the contractor give an undertaking that this work will not have any detrimental impact on the completion of the Civic Heart works.
- That the former Site Agent for Holly Construction be retained to minimise disruption on the project.

5.7 On the evening of 24 January 2007, the Leader of the Council authorised the variation of the contract on the above terms, using the urgent powers procedure as set out in Part 4D Paragraph 4 of the Council's constitution. In line with the Council's constitution, Councillor Gordon Kerr was present as Chair of the Housing & Regeneration Overview and Scrutiny Panel to agree that the matter was urgent.

5.8 That contract has now been entered into with Lumsden & Carroll. The work is back on track, and as a result of the use of the urgent powers procedure, the completion date – of 16th March 2007 – remains unchanged, and no prospective tenants have been lost.

6. Recommendations

6.1. It is recommended that full Council:

- i. Note that the urgent powers procedure has been invoked by the Leader of the Council under Part 4D of the Constitution.
- ii. Formally endorse the actions taken by the Leader of the Council

7. Background Papers/Documents Referred To

Contractual documents with Holly Construction for the refurbishment of the Mechanics Institute and with Lumsden & Carroll for the Civic Heart.

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