

MAYOR'S EXECUTIVE DECISION MAKING

Thursday, 29 November 2018

Mayor's Decision Log No. 184


1. **TOWER HAMLETS TOWN HALL - CONTRACT SUM RISK
CONTINGENCY APPROVAL (Pages 3 - 26)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Committee Manager, Democratic Services

Tel: 0207 364 4651, e-mail: matthew.mannion@towerhamlets.gov.uk

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Agenda Item 1

Individual Mayoral Decision Proforma Decision Log No: 184	 TOWER HAMLETS
Report of: Ann Sutcliffe, Acting Corporate Director Place	Classification: Part Exempt
Tower Hamlets Town Hall – Contract Sum Risk Contingency Approval	

Is this a Key Decision?	Yes
Decision Notice Publication Date:	21 November 2018
General Exception or Urgency Notice published?	Yes (General Exception Notice published 21 November 2018)
Restrictions:	The appendices are exempt under Paragraph 3 of Schedule 12A of the Local Government Act 1972.
Reason for seeking an Individual Mayoral Decision	Approval is sought via an IMD to secure a funding allocation to provide for an additional client-held contingency budget to help manage remaining risks on the project. An Individual Mayoral Decision is required in this instance on the basis that further delays in authorising the contract will have significant project cost implications and cause programme delays.

EXECUTIVE SUMMARY

This report requests consideration of an additional risk contingency allocation to be approved through an Individual Mayoral Decision (IMD) towards the new Town Hall project as agreed by the Project Board and following advice from the Acting Corporate Director of Finance. The proposed contract sum of £109.5m (which includes the PCSA period and enabling works contract value), when added to the design and planning costs incurred on the project (and committed) to date of £5.9m gives a total cost of the project at the point of signing the contract that is £115.4m. This is £400,000 above the total approved funding available to support the delivery of the project.

The key variances between the project costs today and those reported to the cabinet in June 2017 are:

Realisation of additional asbestos risk	£5m
Increase in OHP rates	£2m
Additional inflation costs beyond Stage 3a cost plan	£1.1m
Additional design team fees beyond Stage 3a cost Plan	£0.9m

Loss of Barts Funding (funding exceeded costs associated with compliance with terms of funding)	£0.75m
TOTAL	£9.75m

The reconciliation above is a high level summary of changes – detailed variations following market testing of component packages have been assessed by the Council's independent cost consultant.

The target date for entering into the main JCT design and build contract with our preferred contractor is week commencing 26th November 2018. Political sign off of this IMD to secure and approve the additional project risk contingency of £5m which is considered important prior to the signing of the main contract. A failure to sign by the end of November would incur additional costs associated with programme delay. The £5m reflects 5% of the total contract sum (taking into account the PCSA and Enabling Works to date). The main contractor is taking on the majority of building related risks including construction inflation; design development and co-ordination; all risks on the new-build element; and, risks in the ground. However, a number of risks remain with the council; an assessment of those risks has been appraised by the Projects' Employer's Agent (appended as an exempt report) which has been presented to the Project Board.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; statutory implications; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

DECISION

The Mayor is recommended to:

- a) Approve an additional client-held contingency budget of £5m to help manage remaining risks on the project.

APPROVALS

1. Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Mayor. I confirm that the Mayor and/or Lead Member have agreed to this decision being taken using this process.

Signed  Date

2. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date

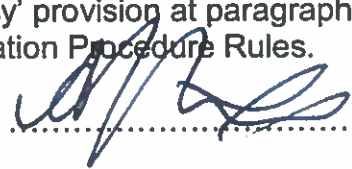
3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)

I confirm that this decision:-

- (a) has been published in advance on the Council's Forward Plan OR
- (b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

Signed  Date

4. Chief Executive

I have been consulted on the content of the attached report which includes my comments where necessary.


Signed  Date

5. Mayor

I agree the decision proposed in the recommendations above for the reasons set out in paragraphs 1.1 – 3.2 in the attached report.

Signed  Date 29/11/18

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Executive Decision-Individual Mayoral Decision 29 th November 2018	 TOWER HAMLETS
Report of: Ann Sutcliffe, Acting Corporate Director Place	Classification: Part Exempt
Tower Hamlets Town Hall – Contract Sum Risk Contingency Approval	

Lead Member	Mayor Biggs
Originating Officer(s)	Ann Sutcliffe, Acting Corporate Director Place
Wards affected	All wards
Key Decision?	Yes
Forward Plan Notice Published	Yes – General Exception Notice published 21 November 2018
Reason for Key Decision	Financial Threshold
Strategic Plan Priority / Outcome	One Tower Hamlets – a dynamic outcomes-based Council using digital innovation and partnership working to respond to the changing needs of our borough

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Recommendations:

The Mayor is recommended to:

1. Approve an additional client-held contingency budget of £5m to help manage remaining risks on the project.

1. REASONS FOR THE DECISIONS

- 1.1 An Individual Mayoral Decision is required in this instance to ensure there is no delay to the start date of the main contract, and on the basis that further delays in authorising the contract will have significant cost and programme implications and will result in circa. £118,000 per week of project costs arising from an extended programme and the impact of inflation on the end date of the project

2. ALTERNATIVE OPTIONS

- 2.1 Several exercises have been carried out on re-procurement options with the projects' Employer's Agent Turner & Townsend, one such option has been to re-procure via the PAGABO framework as an alternative route to market if required. However, their analysis shows that this would result in a programme delay of 4 to 6 months. Furthermore, their latest exercise using BYUK's market tested numbers shows that re-procurement could be more expensive taking the total outturn constructions costs of the project to over £115m (see T&T Gateway 3 report attached) which, when added to the design and planning fees to date would put the total project costs at over £120m prior to the allocation of an appropriate client contingency.

3. DETAILS OF THE REPORT

- 3.1 On 27th June 2017 the Mayor in Cabinet gave budget approval for the new Town Hall Project (formerly named Civic Centre Project) adopting a capital estimate of £105m for its design and construction. At this meeting Cabinet also agreed an additional sum of £10m towards a council held risk contingency for the project to cover 'unforeseen' and 'uncontrollable' risks such as inflation beyond that forecast, post-Brexit changes to the market or major changes to the project brief.
- 3.2 See 27th June 2017 Cabinet report - <https://democracy.towerhamlets.gov.uk/documents/g7730/Public%20reports%20pack%2027th-Jun-2017%2017.30%20Cabinet.pdf?T=10>

4. EQUALITIES IMPLICATIONS

- 4.1 See 3rd November 2015 Cabinet report - <http://democracy.towerhamlets.gov.uk/documents/g6202/Public%20reports%20pack%2003rd-Nov-2015%2017.30%20Cabinet.pdf?T=10>

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
- 5.2 In June 2017 Cabinet approved the Town Hall project capital spend and allocated £105m plus a further £10m as a contingency item. We have reviewed the business case that formed part of that cabinet paper. Whilst the contract price – and total cost of the project has increased, so too have other key variables. The increase rental now being sought on Mulberry Place has a material impact on the NPV of the Town Hall project. An extract of section 8 of the July cabinet report is provided below:

Based on the financing strategy agreed in the November 2015 report the civic centre project offers a positive NPV of some £111m based on the application of the site sales receipts approved in November 2015 plus John Onslow House being applied to fund the civic centre. It should be noted that alternative financing strategies also produce a positive NPV and demonstrate that even if the project was entirely funded from loans based on the Public

Works Loans Board (PWLB) rate, the NPV would remain positive over a 45 year period.

The impact of the additional rental – even at the lower levels reported – has a material positive impact on the business case – every £1m additional payable in rent adds approximately £15m to the business case using a discount rate of 3.5% over 25 years. The current rent is proposed to increase by £1.5m which adds a further £22.5m to the project NPV. This, together with the positive NPV starting point, allows us to conclude that there is sufficient headroom in the current cost plan to be comfortable that business case remains positive after allowing for an increase in the contingency proposed and the higher overall contract sum.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 The current approved capital programme includes a provision of £105m for the Town Hall Project. The initial contingency sum of £10m is being incorporated as part of the Capital Programme update for January Cabinet. The additional £5m contingency recommended by this report will also need to be included in the overall programme budget as part of the Capital Programme update.
- 6.2 This brings the total estimated cost of the Town Hall Project to approximately £120m.
- 6.3 The contingency sum recommended is supported by the analysis in the Turner & Townsend Gateway 3 report. However the Project Board will need to ensure that risk is managed and monitored effectively to minimise the use of this contingency.
- 6.4 Financing of this individual project will be determined as part of the overall Capital Programme Financing.

7. COMMENTS OF LEGAL SERVICES

- 7.1 This decision is urgent on the grounds that further delay to the programme will lead to substantial cost increases. Project Team discussions on price have significantly lowered the overall cost. However, the contract sum is currently higher than perhaps it ought to be on the grounds that the contractor has no alternative but to price against a number of unknown risks that may not crystallise. Therefore, the budget needs to be increased in order for the project to progress.
- 7.2 This urgent decision is being made under part 4 of the Constitution Access to Information Procedure rules (rules 18 and 19) and “call in - urgency” under Overview and Scrutiny Procedure Rules (rule 17). Therefore, this decision will be notified to the next Council meeting and the date for taking the decision is subject to the meeting with the Chair of Overview and Scrutiny as detailed above.

- 7.3 The increase in budget will be included under the contract as a contingency only expendable at the Council's discretion. This means that the Council will only be required to expend contingency sums in the event that one of the risks identified in the report comes to pass.
- 7.4 The decision to spend will be subject to the Council's legal duty to obtain Best Value which will depend on the alleviation of risk at the time the decision is to be made. This is a position supported by the proposed terms and conditions of the construction contract.
- 7.5 The attached appendix contains commercially sensitive information which informs the Council's position in the negotiation with the contractor. It is therefore exempt information for the purposes of the Access to Information Procedure rules. The public interest in knowing the information is outweighed by the detriment to the public interest if the information was released as it would be damaging to the Council's commercial position. Therefore, the exemption to the information should be maintained.
- 7.6 There are no specific legal equalities issues raised by this report
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Linked Reports, Appendices and Background Documents

Linked Report

NONE

Appendices

- Special Project Board report -19th November 2018 (Restricted)
- T&T Gateway 3 report - November 2018 (Restricted)

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- 27th June 2017 [Cabinet report](#)
- 3rd November 2015 [Cabinet report](#)

Officer contact details for documents:

Or state N/A

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of the Local Government Act 1972.

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