

Use of the Council's Rule 16 Urgency Process since the last ordinary meeting of the Council

Council is asked to note the following decisions taken and the reasons for urgency.

1.1 Decision (Rule 16): Award of contracts for Waking Watch services and removal of cladding at Walbrook House

1.2 Reasons for urgency

The Cabinet Member for Housing (Councillor Ahmet Oykenar) approved a decision on 30 April 2019 to award contracts for waking watch services and the removal of cladding at Walbrook House under the rule 16 urgency procedure.

1. A Waking watch service provision was instigated as an interim measure in the light of further analysis of the cladding at Walbrook House and MCHLG guidelines issued in December 2018.
2. The service provision was required to be maintained until such time as the cladding is removed from the building to ensure residents are safe to remain in their homes. The key decision was required to ratify the service provision which has already been instigated on health and safety grounds and the ongoing costs associated with this service.

Removal of Cladding system:

3. In the light of further guidance published by the Ministry of Housing, Communities and Local Government in December 2018, a technical review of the cladding system at Walbrook House was commissioned, prior to undertaking works as part of the agreed Better Council Homes pilot.
4. It had identified that the cladding system that was previously installed did not comply with Building Regulations or meet the expected minimum fire performance standards. In response a Waking Watch service had been immediately instigated, to manage a full building evacuation and a contractor appointment was proposed to remove the cladding.
5. Further investigations had also identified defects in the fire breaks, within the system and the presence of the gas main within an unvented cavity within the cladding system.
6. As such the council had to take urgent action to remove the cladding system to ensure the safety of residents – whilst this programme was already scheduled the revised MCHLG guidelines meant that the Council had to progress the works more rapidly.

7. It was not possible to give the required 28 day notice and include the decision on the Council's Key Decision List because;
 - The waking watch service had already been instigated to ensure residents could remain in their homes which was their preference and mitigated the impact on the council, of the requirement for the provision of temporary accommodation, required by the need to decant the building.

2.1 Decision (Rule 16) Appointment of replacement contractor to construct Edmonton Cemetery extension

2.2 Reason for Urgency:

On 15 April 2019 Doug Wilkinson (Director of Environment) took the decision to appoint bidder A (Ark Build PLC) to complete the Edmonton Cemetery extension works under the rule 16 urgency process.

1. On 14th March 2019 Dawnus Construction Holdings Ltd., the contractor delivering the Edmonton Cemetery extension works, became insolvent and went into administration. This was an unforeseen circumstance with no prior warning and the Council had no indication that the contractor was experiencing financial difficulties. With Dawnus going into administration a replacement contractor was urgently required to complete the works.
2. It was necessary to appoint a replacement contractor immediately because there was currently very limited burial space remaining within the existing cemetery. Based on current demand we expected the existing cemetery to reach capacity (lawn graves and traditional) by late summer.
3. Once the decision was taken to appoint a new contractor, there was a 4-week mobilisation period, followed by approximately 18 weeks of construction works. This will result in a likely completion by mid-September.
4. Should the completion of the extension have been delayed much beyond late summer then there was a significant risk that the cemetery would need to close for new burials. This would have posed a reputational risk to the Council as we would have been unable to meet demand from the local community, which was of particular concern for those who already have loved ones buried within Edmonton Cemetery.
5. A delay in the appointment of a replacement contractor would have extended the programme further in Autumn, increasing the likelihood of Edmonton Cemetery needing to close.

6. Officers reviewed the options for obtaining a replacement contractor and recommended the appointment of the second ranked bidder from the original procurement exercise. This recommendation was made because the appointment of bidder A was the fastest way of securing a contractor for the works, whilst ensuring that good value was achieved.
7. Officers negotiated with bidder A, who did confirm that they could commence the works within 4 weeks of receiving instruction from the Council.
8. The total cost of for the construction works was still within the £1.6m of the total budget allocated for the construction works.

3.1 Decision (Rule 16): Variation of the Option Agreement on Orbital Business Park Ltd (Dwyers) regarding Orbital Business Park and grant of lease to Broadwick Venues Limited.

3.2 Reason for Urgency

On 4 June 2019 Councillor Nesil Caliskan (Leader of the Council) agreed a decision to grant a variation of the option agreement with Orbital Business Park Ltd under the rule 16 urgency process.

1. Orbital Business Park Limited (Dwyers) had an Option over part of the Orbital Business Park land on which the 'sheds' currently sit. The Council wished to grant a 2 year lease on the sheds to Broadwick Venues to deliver the Field Day festival and a programme of other exciting and place-building events.
2. Under the terms of the Option, the Council was able to grant any property interest over the Option land and as such Orbital Business Park Limited have to provide consent to any lease that is put in place before their option is exercised. Orbital Business Park Limited had previously indicated that consent would be forthcoming for the Broadwick Venues lease however they have now withheld consent to grant the lease indicating that it wants an increase to the floor area of the residential block for which, under the terms of the Option agreement¹ the Council is delivering outline planning consent on the Option land.
3. When Officers met with Orbital Business Park Ltd (Dwyers) firstly on 8th May, having finally agreed the Heads of Terms with Broadwick Venues Ltd. they were seeking formal consent. Officers again were in discussion with Dwyers on the 15th May and lastly on the 28th May to try to obtain consent Dwyer's indicated that they were not now inclined to grant permission but indicated that they wanted to increase the benefits they could receive from the options land. This was done with limited time until the lease had to be agreed with Broadwick Venues and for them to allow the event to proceed on the 8th June 2019 Orbital Business Park Ltd (Dwyers) finally verbally agreed on the 31st May to

the Broadwick Lease proceeding on the basis that the council agreed to the Deed of Variation. These timescales meant that the 28 day notice period could not be complied with whilst ensuring that the Field Day Festival goes ahead on the 7th June.

4. The reports sought permission to enter into a deed of variation that varied the option agreement so that Orbital Business Park Limited benefited from increased floor space in return for which Orbital Business Park Limited will consent to the grant of lease to Broadwick Venues Limited. The Deed of Variation had to be entered into as a matter of urgency before 6th June 2019 so that the 2019 Field Day festival could proceed on the 8th and 9th June 2019.