

To register a question for Public Question Time please email your question to [democracy@rossendalebc.gov.uk](mailto:democracy@rossendalebc.gov.uk) before 9am Monday 21<sup>st</sup> September

**Meeting of:** The Council

**Wednesday 23<sup>rd</sup> September 2020 at 6.30pm** or at the conclusion of Question Time and Public Engagement whichever is the later.

**\*Owing to the social distancing requirements of Covid-19, public meetings which normally take place in the Council Chamber will be conducted via Zoom.**

**Join Zoom Meeting** (please allow time for set up if accessing for the first time):

<https://zoom.us/j/95728023249?pwd=T1c5M3ZjVzNrdFVGdzRuUnRoTXdYUT09>

Meeting ID: 957 2802 3249

Passcode: 479216

**Please note that a waiting room will be in place for the Zoom meeting and public will be admitted to the meeting shortly before 6.30pm.**

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**Supported by:** Carolyn Sharples, Committee and Member Services Manager Tel: 01706 252422  
Email: [democracy@rossendalebc.gov.uk](mailto:democracy@rossendalebc.gov.uk)

ITEM		Lead Member/Contact Officer
<b>A.</b>	<b>BUSINESS MATTERS</b>	
<b>A1.</b>	<b>Apologies for Absence</b>	
<b>A2.</b>	To approve and sign as a correct record the minutes of 15 <sup>th</sup> July 2020.	
<b>A3.</b>	<b>Urgent Items of Business</b> To note any items which the Chair has agreed to add to the Agenda on the grounds of urgency.	
<b>A4.</b>	<b>Declarations of Interest</b> <i>Members are advised to contact the Monitoring Officer in advance of the meeting to seek advice on interest issues if necessary.</i> Members are requested to indicate at this stage, any items on the agenda in which they intend to declare an interest. Members are reminded that, in accordance with the Local Government Act 2000 and the Council's Code of Conduct, they must declare the nature of any personal interest and, if the interest is prejudicial, withdraw from the meeting during consideration of the item.	Clare Birtwistle, Monitoring Officer 01706 252438 <a href="mailto:clarebirtwistle@rossendalebc.gov.uk">clarebirtwistle@rossendalebc.gov.uk</a>

The agenda and reports are also available for inspection on the Council's website <https://www.rossendale.gov.uk/>. Other formats are available on request. Tel 01706 217777 or contact Rossendale Borough Council, Futures Park, Bacup, OL13 0BB

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<b>B.</b>	<b>Communications from the Mayor, the Leader or Head of Paid Service</b> To receive any communications from the Mayor, the Leader, or the Head of the Paid Service that they may wish to lay before the Council.	The Mayor, Councillor Ashworth, The Leader, Councillor A.Barnes and Neil Shaw, Chief Executive 01706 252447 <a href="mailto:neilshaw@rossendalebc.gov.uk">neilshaw@rossendalebc.gov.uk</a>
<b>C.</b>	<b>RECOMMENDATIONS FROM THE CABINET AND OTHER COMMITTEES</b>	
<b>C1.</b>	<b>Recommendation of the Governance Working Group</b> To consider the Constitution Review report.	Councillor Serridge/ Clare Birtwistle, Monitoring Officer 01706 252438 <a href="mailto:clarebirtwistle@rossendalebc.gov.uk">clarebirtwistle@rossendalebc.gov.uk</a>
<b>D.</b>	<b>ORDINARY BUSINESS</b>	
<b>D1.</b>	<b>Waterside Mill Update</b> To consider the partial demolition of Waterside Mill, Bacup.	Councillor Lythgoe/Cath Burns, Director of Economic Development 01706 252429 <a href="mailto:cathburns@rossendalebc.gov.uk">cathburns@rossendalebc.gov.uk</a>
<b>D2.</b>	<b>Permission to Tender for Disabled Facilities Grant Lifting Equipment</b> To consider permission to tender for DFG lifting equipment.	Councillor Hughes/Cath Burns, Director of Economic Development 01706 252429 <a href="mailto:cathburns@rossendalebc.gov.uk">cathburns@rossendalebc.gov.uk</a>
<b>D3.</b>	<b>River Wall at Victoria Way, Rawtenstall</b> To consider the River Wall report.	Councillor Walmsley/ Clare Law, HR Manager. Tel: (01706) 252457 Email: <a href="mailto:clarelaw@rossendalebc.gov.uk">clarelaw@rossendalebc.gov.uk</a>



**Neil Shaw**  
**Chief Executive**

**Date Published:** 15<sup>th</sup> September 2020

COUNCILLOR BARBARA ASHWORTH, MAYOR

MINUTES OF: THE COUNCIL OF THE BOROUGH OF ROSSENDALE

DATE OF MEETING: 15<sup>th</sup> July 2020

PRESENT: The Mayor Councillor Ashworth (in the Chair)  
Councillors Adshead, Aldred, Brennan, Bromley, Cheetham, James Eaton, Janet Eaton, Essex, Farrington (in part), Fletcher, Gill, Haslam-Jones, Haworth, Hughes, Johnson, Kempson, Kostyan, Lythgoe, MacNae, Marriott, Morris, Neal, Oakes, Pendlebury, Powell, Procter, Roberts (in part), Serridge, Stansfield (in part), Steen, Stevens and Walmsley.

IN ATTENDANCE: Neil Shaw, Chief Executive  
Clare Birtwistle, Legal Services Manager (Monitoring Officer)  
Cath Burns, Director of Economic Development  
Adam Allen, Director of Communities  
Carolyn Sharples, Committee and Member Services Manager  
Jenni Cook, Committee and Member Services

ALSO PRESENT: 1 member of the public

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1. **Apologies for Absence**

Apologies for absence were received for Councillors A.Barnes, L.Barnes and Kenyon.

2. **Minutes**

**Resolved:**

That the minutes of the meeting held on 18<sup>th</sup> March 2020 and 24<sup>th</sup> June 2020 be signed by the Mayor as a correct record.

3. **Urgent Items of Business**

There were no urgent items of business.

4. **Declarations of Interest**

Councillors Lythgoe and Morris declared a non-pecuniary interest in Minute 12 and Councillor Cheetham declared a non-pecuniary interest under Minute 8.

5. **Communications from the Mayor, the Leader or Head of Paid Service**

There were no communications.

**RECOMMENDATIONS FROM THE CABINET AND OTHER COMMITTEES**

6. **Overview and Scrutiny Annual Report & Work Programme**

The Council considered the recommendation of the Overview and Scrutiny Committee in relation to their Annual Report & Work Programme, which was introduced by the Portfolio Holder for Corporate Services, Councillor Serridge, who placed on record his thanks to Councillor Johnson and the members of the Overview and Scrutiny Committee.

**Resolved:**

That members approve the Overview and Scrutiny Annual Report 2019/20 and the Work Programme for 2020/21.

### **Reason for Decision**

The Annual Report 2019/20 summarises the work carried out by the O&S Committee and the Work Programme 2020/21 provides an outline of the work to be carried out during the 2020/21 municipal year.

### **Alternative Options Considered**

None.

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**N.B.** Councillor Kempson entered the meeting

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## **7. Constitution Review**

The Council considered the recommendation of the Governance Working Group in relation to the Constitution Review report, which was introduced by the Portfolio Holder for Corporate Services, Councillor Serridge.

### **Resolved:**

That Council agree to the proposed changes to the Constitution in relation to: Annual Review of the Constitution and Roll of Honour (as detailed in Appendices A and B of the report).

### **Reason for Decision**

The Council is required by law to implement a Constitution and it is in the interests of the Council to regularly review and update the document.

### **Alternative Options Considered**

None.

## **8. Standards Independent Person**

The Council considered the recommendation of the Appointments and Appeals Committee in relation to the Standards Independent Person, which was introduced by the Portfolio Holder for Corporate Services, Councillor Serridge.

Councillor Cheetham declared a non-pecuniary interest in this item as both herself and the Independent Person were members of the Soroptimists.

In response to comments from members it was confirmed that:

- The Independent Person had been excellent in the role and would continue to be an asset to the Council.

### **Resolved:**

That Council appoint Alison Driver as Standards Independent Person for 4 years commencing July 2020.

### **Reason for Decision**

Appointment of Alison Driver as the Standards Independent Person will provide continuation of advice on alleged breaches of the code of conduct.

### **Alternative Options Considered**

None.

## **ORDINARY BUSINESS**

## **9. Reconstruction of River Wall**

The Council considered the Reconstruction of River Wall at Victoria Way Rawtenstall report, which was introduced by the Portfolio Holder for Resources, Councillor Walmsley.

In response to questions from members it was confirmed that:

- The Council's insurance did not cover the works.
- The Council's application to the Bellwin Scheme had been rejected as this was not designed to fund capital works.
- Was the Environment Agency checking other areas of potential breach along the river banks in Rossendale? The Flood Champion confirmed that works were taking place on the River Irwell, and works in Strongstry and Irwell Vale were imminent.
- The East Lancs Railway had funded the works along their section of the river bank.

**Resolved:**

1. To approve up to £250,000 in capital funding for works for the reconstruction of the retaining river wall at Victoria Way, Rawtenstall, to enable the works to be undertaken urgently.
2. To authorise officers to tender for the works contract as required by the Council's Constitution.

**Reason for Decision**

Works were required to repair and protect the Council's asset.

**Alternative Options Considered**

None.

**NOTICES OF MOTION**

**10. NOTICE OF MOTION**

Councillor Steen moved the following motion which was seconded by Councillor James Eaton:

*The Council agrees to the naming of the proposed new market square in Bacup as the Sir Everton Weekes Square in recognition of the services of Sir Everton Weekes to Bacup Cricket Club and pioneering work in Race Relations.*

In discussing the motion the following was noted:

- The funding bid for the new market square had not yet been secured. To amend the motion to ensure a memorial could still be created.

Councillor Ashworth moved the following amendment which was seconded by Councillor Walmsley:

*Council notes with great sadness the recent death of Sir Everton Weekes. Council wishes to recognise Sir Everton's enormous contribution to both Bacup Cricket Club and race relations in the 1950's and therefore resolves to create a lasting memorial to Sir Everton in Bacup Town Centre as part of the exciting plans for Bacup Market.*

Members voted on the amended motion becoming the substantive motion, which was carried.

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**N.B.** Councillors Roberts and Stansfield left the meeting

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**Resolved:**

Council notes with great sadness the recent death of Sir Everton Weekes. Council wishes to recognise Sir Everton's enormous contribution to both Bacup Cricket Club and race relations in the 1950's and therefore resolves to create a lasting memorial to Sir Everton in Bacup Town Centre as part of the exciting plans for Bacup Market.

### **Reason for Decision**

To support the amended notice of motion.

### **Alternative Options Considered**

The original notice of motion.

## **11. Exclusion of Public and Press**

In response to a Point of Order, it was clarified that Item 12 had been published on the agenda as Item F1 in line with the Local Government Act 1972 and members had received a copy of the report via secure email.

### **Resolved:**

That the public and press be excluded from the meeting during consideration of the following item of business on the grounds that it involves disclosure of exempt information relating to the financial or business affairs of any particular person (including the authority holding that information) under Part 1 Paragraph 3 of Schedule 12A to the Local Government Act 1972.

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**N.B.** Councillor Farrington left the meeting

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## **12. Ski Rossendale**

The Council considered the Ski Rossendale report, which was introduced by the Deputy Leader and Portfolio Holder for Health and Leisure, Councillor Oakes.

Discussion took place on the item and clarification was provided where requested.

Councillors Haworth, Pendlebury and Serridge requested a named vote.

Members voted as follows:

<b>Name</b>	<b>Vote</b>
Cllr Adshead	For
Cllr Aldred	For
Cllr Ashworth	For
Cllr Brennan	For
Cllr Bromley	For
Cllr Cheetham	Against
Cllr James Eaton	Against
Cllr Janet Eaton	Against
Cllr Essex	Against
Cllr Fletcher	For
Cllr Gill	For
Cllr Haslam-Jones	For
Cllr Haworth	Against
Cllr Hughes	For
Cllr Johnson	For
Cllr Kempson	Against
Cllr Kostyan	Against
Cllr Lythgoe	For
Cllr MacNae	For
Cllr Marriott	For
Cllr Morris	Abstain
Cllr Neal	Against

Cllr Oakes	For
Cllr Pendlebury	Against
Cllr Powell	Abstain
Cllr Procter	For
Cllr Serridge	For
Cllr Steen	Against
Cllr Stevens	For
Cllr Walmsley	For
<b>For:</b>	<b>18</b>
<b>Against:</b>	<b>10</b>
<b>Abstentions:</b>	<b>2</b>

**Resolved:**

To approve the recommendations as detailed in the report in relation to Option 2.

**Reason for Decision**

To confirm the preferred option.

**Alternative Options Considered**

Option 1.

**(The meeting commenced at 6.40pm and concluded at 8.20pm)**

Signed.....

(Chair)

Date .....

<b>Subject:</b>	Constitution Review		<b>Status:</b>	For Publication	
<b>Report to:</b>	Council		<b>Date:</b>	23 <sup>rd</sup> September 2020	
<b>Report of:</b>	Monitoring Officer		<b>Portfolio Holder:</b>	Corporate Services	
<b>Key Decision:</b>	No - reserved for Council	Forward Plan <input type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>	
<b>Equality Impact Assessment:</b>	Required:	No	Attached:	No	
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached:	No	
<b>Contact Officer:</b>	Carolyn Sharples		<b>Telephone:</b>	01706 252422	
<b>Email:</b>	<a href="mailto:carolynsharples@rossendalebc.gov.uk">carolynsharples@rossendalebc.gov.uk</a>				

1.	<b>RECOMMENDATION(S)</b>
1.1	That Council agree to the proposed changes to the Constitution in relation to: <ul style="list-style-type: none"> <li>Granting a general dispensation to all members of the Council for a period of 4 years as detailed in Appendix A.</li> </ul>

## 2. PURPOSE OF REPORT

2.1 To consider the proposed changes to the Constitution relating to a general dispensation.

## 3. BACKGROUND

### Part 3 Page 70

3.1 The Council's Monitoring Officer is able to grant dispensations. This includes general dispensations relating to the setting of the Council's Budget and Council Tax. General dispensations can only be given for up to a period of 4 years.

3.2 A general dispensation was granted to all members of the Council for a period of 4 years from 14<sup>th</sup> December 2016 and is currently due for review.

3.3 The proposal was considered by the Council's Governance Working Group on 3<sup>rd</sup> September and was recommended to Council for approval.

3.4 It is recommended that a general dispensation be given for a further 4 year period as detailed in Appendix A. This will enable each member to participate in any discussion relating to the setting of the Council's budget and participate in the vote taken on the setting of the Council Tax.

## 4. RISK

4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- Failure to maintain and follow an up-to-date Constitution risks legal proceedings being taken against the Council, and risks members of the community being dissatisfied with the action of the Council.
- Monitoring risks and reviewing systems of controls.

## 5. FINANCE

5.1 There are no immediate financial implications arising from the report.

## 6. LEGAL

6.1 There are no immediate legal considerations attached to the recommendation in this



report, other than the considerations as detailed at 4.1.

**7. POLICY AND EQUALITIES IMPLICATIONS**

7.1 The report relates to the Council's Corporate Priority of a connected and successful Rossendale. There are no equalities implications.

**8. CONCLUSION**

8.1 The Council is required by law to implement a Constitution and it is in the interests of the Council to regularly review and update the document.

Background Papers	
Document	Place of Inspection
The Constitution of the Council	<a href="https://www.rossendale.gov.uk/downloads/download/10710/constitution">https://www.rossendale.gov.uk/downloads/download/10710/constitution</a>

### Exercise of Delegated Powers

6.6 The Monitoring Officer is able to grant dispensations:

This includes general dispensations relating to:

- a) any allowance payment or indemnity granted to a member.
- b) setting the Council Tax or a precept under the Local Government Finance Act 1992.

(A general dispensation has been granted to all members of the Council for the period of four years from ~~14th December 2016~~14<sup>th</sup> December 2020).

<b>Subject:</b>	Partial demolition of Waterside Mill, Bacup	<b>Status:</b>	For Publication
<b>Report to:</b>	Full Council	<b>Date:</b>	23 <sup>rd</sup> September 2020
<b>Report of:</b>	Head of Planning & Building Control	<b>Portfolio Holder:</b>	Environment
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input checked="" type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No	Attached: No
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: No
<b>Contact Officer:</b>	Mike Atherton	<b>Telephone:</b>	01706252420
<b>Email:</b>	MichaelAtherton@rossendalebc.gov.uk		

<b>1.</b>	<b>RECOMMENDATION(S)</b>
1.1	Members approve an addition to the Capital Programme of up to £100k for the partial demolition of Waterside Mill or full demolition if required, to be funded by borrowing or capital receipts.
1.2	All future minor amendments to the strategy to be delegated to the Head of Planning & Building Control in consultation with the Portfolio Holder.

## 2. PURPOSE OF REPORT

- 2.1 To inform Members of the background leading to the partial demolition of the building and also to ratify the funding for the costs of demolition.

## 3. BACKGROUND

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **A clean and green Rossendale:** our priority is to keep Rossendale clean and green for all of Rossendale's residents and visitors, and to take available opportunities to recycle and use energy from renewable sources more efficiently.
  - **A connected and successful Rossendale that welcomes sustainable growth:** our priority is to ensure that we are well connected to our residents, key partners and stakeholders. We want to make the most of every pound we spend and we are always looking for new and innovative ways to make the resources we do have, work harder for us.
  - **A proud, healthy and vibrant Rossendale:** our priority is to ensure that we are creating and maintaining a healthy and vibrant place for people to live and visit.

No specific consultation has been carried out but there has been a regular dialogue with Historic England in order to keep them informed of the condition of the building and the actions undertaken.

- 3.2 Since 2002, due to the inability to make contact with any person(s) with responsibility for the Mill it has fallen to the Council to keep the mill secure, at considerable cost.
- 3.3 In May 2003, a serious fire damaged the main roof structure, without compromising the remaining building.
- 3.4 In 2005, RBC appointed MPA (Michael Pooler Associates) to produce the first of a number of Condition Reports, with associated actions thought necessary. At that time, it

was deteriorating, but making the building weather tight could help preserve its condition. However, the cost associated to execute these works were considered unacceptable at that time, (also RBC had no Liability).

- 3.5 A further report was commissioned in 2010 with a view to try and get the Mill delisted, but whilst its condition had further deteriorated, it was not considered to pose a danger at that time, but was probably beyond economic repair. However, HE (Historic England) would not accept its delisting.
- 3.6 In 2015, after a partial failure of a section of the roof supported by the gable to the Alder Street elevation, it was necessary to remove a section of the main roof timbers and reduce the height of the now unsupported gable. The remaining part of the gable, presently supported by scaffolding and remains fenced off. HE, at the time accepted that “the Council had followed due process” in making the building safe. A further report produced after the collapse and subsequent demolition, again highlighted the deterioration due to water ingress throughout the Mill.
- 3.7 More recently starting in November 2019, other sections of the roof structure collapsed into the building, impacting on the floors below and collapsing those areas. These sectional collapses continued in December 2019, March 2020, and finally in July 2020 the remaining area of roof to the main mill failed. After this latest collapse, the Council was able to obtain some Aerial Drone footage of the buildings present condition, as it is now considered unsafe to enter the building.
- 3.8 Once the footage was viewed, it became apparent that the whole of the building was now in a compromised state and must be considered dangerous. The Drone footage was forwarded to both MPA and HE for their comments. The HE Surveyor (who has personal knowledge of the mill) gave his response that Partial Demolition was now necessary at this time to ensure a safe situation, and that LBC, (Listed Building Consent) was not required to make the structure safe. HE is still of the opinion that what is left, after any demolition should be maintained, but accept that this will need to be assessed after the building is made safe.
- 3.9 An up to date report was requested from MPA to identify the extent of the works required to make the building safe, and consider full demolition. The findings of their report align with the levels of reduction considered appropriate by HE, but with the proviso that this will need to be monitored as the elements are exposed, to identify if they are suitable to remain or additional reduction is required. On this basis, the part demolition of the Mill commenced in September 2020.
- 3.10 Initial estimates for the Partial Demolition are £39,500.00, plus a contingency of £10,000.00. However, funding should be sought for £100,000.00, to reflect the total costs should full demolition be required.

#### **4. RISK**

- 4.1 All the issues raised and the recommendation(s) in this report involve risk considerations

as set out below:

There is risk of the partial collapse of the building into Burnley Road, causing damage to people and property and also blocking the main arterial route between Bacup and Burnley, and associated traffic problems, affecting the local economy.

A BT Hub box sited in front of the building could also be damaged causing loss of multiple connections having similar effect.

## **5. FINANCE**

- 5.1 Due to the dangerous state of the building the Council is required to make the building safe, as the owner can't be contacted the Council will be required to fund the works and reclaim at a later date through the charge on the property.
- 5.2 If partial demolition is sufficient to make the building safe the cost will be £49,500, including contingency, however if full demolition is required the cost will be up to £100,000.
- 5.3 This project will be a new capital scheme and officers will give consideration as to the optimum funding arrangements, which may include: use of capital receipts, internal borrowing and any other requirements for PWLB borrowing. As at 31<sup>st</sup> March 2020 the council had £2.082m of unallocated capital receipts.

## **6. LEGAL**

- 6.1 The Council received sufficient evidence from MPA to satisfy itself that emergency measures need to be taken to remove the danger this building was posing. As a result, a notice under s78 Building Act 1984 was served in accordance with the legislation. The Council must only take steps in compliance with s78 and not step outside the realm of this provision, particularly as this is a listed building and to do otherwise would put the Council at risk of challenge from Historic England.

The lack of contact with the owners over the last 20 years has not been easy and attempts to trace them have been numerous over the time frame. The remaining trustee has never responded and the likelihood of them coming forward is minimal.

All work undertaken under section 78 is subject to cost recovery. The Council will seek to recover all of those reasonable expenses it incurs in the exercise of its powers under s78 from the building owner/trustee. Failure to pay would normally result in the amount being pursued in the courts. This would be difficult here due to the trustee's absence but as from the date of completion of works until recovery the debt remains as a charge on the premises. Consideration as to the future of the building will continue once the same has been made safe.

## **7. POLICY AND EQUALITIES IMPLICATIONS**

- 7.1 Not applicable.

## **8. CONCLUSION**

- 8.1 The partial demolition of the building has begun following the continued structural deterioration of the building. It is recommended that Members ratify the funding to enable

the necessary demolition works.

Background Papers	
Document	Place of Inspection
Michael Pooler Associates Structural Engineers Report 2020	Planning Department, Futures Park

<b>Subject:</b>	Permission to Tender for Disabled Facilities Grant Lifting Equipment	<b>Status:</b>	For Publication
<b>Report to:</b>	Council	<b>Date:</b>	23 <sup>rd</sup> September 2020
<b>Report of:</b>	Director of Economic Development	<b>Portfolio Holder:</b>	Communities
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	Yes/No	Attached: Yes/No
<b>Biodiversity Impact Assessment</b>	Required:	Yes/No	Attached: Yes/No
<b>Contact Officer:</b>	Mick Coogan	<b>Telephone:</b>	01706 252507
<b>Email:</b>	michaelcoogan@rossendalebc.gov.uk		

1.	<b>RECOMMENDATION(S)</b>
1.1	For the Council to grant permission to proceed as planned with procurement process for the supply and maintenance of lifting equipment for Disabled Facilities Grants using the Northern Consortium framework extended competition for a 5 year contract with the option for an extension for a further 2 years.

## 2. PURPOSE OF REPORT

2.1 To explain the Council's approach, so far concerning the procurement exercise for lifting equipment and gain approval to proceed.

## 3. BACKGROUND

3.1 Lancashire County Council (LCC) informed districts it is withdrawing its scheme for the supply and maintenance of lifting and other specialist equipment, and now this scheme is known to end on 30<sup>th</sup> November 2020. The affected items include; stairlifts, through floor lifts (indoor), step lifts (outdoor), wash dry toilets and rise and fall baths.

Under the LCC scheme, items were installed under an LCC contract and the Council would be billed. After any installation, ownership of the equipment would be signed over from the customer (disabled person) to LCC, and LCC would be responsible for repairs and maintenance for the life of the equipment.

LCC would also remove equipment when no longer needed and refurbish the equipment, store it and install at another property if it remained in suitable condition.

### 3.2 Procurement Frameworks

Procurement Frameworks for lifting equipment exist where items can be called off at set discounted rates for supply and installation. Through frameworks there is normally a 2-year or 5-year warranty that can be purchased, however there is no option to remove, refurbish and recycle equipment. Therefore, when an item is no longer needed customers would be left with a piece of equipment they no longer want and would be liable for disposing it, and in the case of through floor lifts, making good the aperture (hole).

3.3 If the Council want to provide a good level of service to the customer, in keeping with the previous LCC scheme, then this can't be done by calling off from a framework, but can

be done by 'further competition' also known as 'mini-competition', and therefore suppliers on the framework will then submit competitive bids for the tender.

### 3.4 Northern Consortium and Contract Length

The Northern Consortium operates a procurement framework which offered the most in terms of allowing further competition and covering the most items. The minimum length of further competition with the Northern Consortium is for 4 years, however with a standard warranty length of 5 years this is the term that is suggested to be used along with an option to extend for a further 2 years if mutually agreed. The contract value is expected to be around £1.4m however this entirely depends on customer demand which can vary greatly from year to year. All suppliers on the framework have already been through the OJEU process, which is one of the benefits of using the framework along with technical expertise held regarding such equipment which the Council does not possess.

### 3.6 Further Competition

The Council is looking to add the following in addition to the standard framework terms as part as further competition:

- Extended warranties, on top of the 2 and 5 year warranties available, the option to extend a 5 year to a 7 year and a 7 year to a 10 year, start with a 7 or 10-year warranty, and also obtain a price for a 1-year extension at any time
- Servicing of equipment throughout the length of the contract
- Removal of equipment when no longer needed
- Making good of aperture ready for decoration after the removal of a through floor lift
- Assessing if equipment is suitable for reuse (if under 7 years old)
- Disposing of equipment not suitable for reuse
- Refurbishing equipment suitable for reuse, storing and re-installing
- Building work for step-lifts agreed on a case by case basis (not costed in tender)

### 3.7 The Tender Process

The tender documents in is expected to go to Invitation to Tender stage on 24<sup>th</sup> September 2020 and the new contract starting on 1<sup>st</sup> December 2020. The tender panel will consist of the Housing Renewal Manager, the Strategic Housing Manager and the Director of Economic Development.

### 3.8 Costs

The annual cost of being a member of the Northern Consortium for Rossendale was £910+VAT, however it was negotiated for free for 2020/21. If we commission through the framework it is likely we will need to pay the annual fee throughout the duration of the contract. The supplier pays the Northern Consortium a 4% commission on a periodic basis. Standard discounts on lifting equipment through the consortium range from 10% to 20% if called off directly. The current average spend on lifts is circa £150k per year, however we currently pay for LCC the majority of the expected costs. The mini-competition will include the further charges for all the additional contract



requirements outlined at 3.6 above. All costs are will be paid for from the MHCLG ring fenced DFG allocation

#### **4. RISKS**

- 4.1 There is a risk of being locked into a long term contract that isn't fit for purpose; however the tendering documents are being worked through carefully to avoid this happening.
- 4.2 It is assumed TUPE will not apply due to what Rossendale is planning only being under 10% of the volume of the Lancashire wide contract, however continued due diligence on this point will take place throughout the process
- 4.3 There is significant liability involved for the Council with potential triple figures in terms of equipment in disabled people's houses.

#### **5. FINANCE**

- 5.1 All contract expenditure will be funded by the DFG.

#### **6. LEGAL**

- 6.1 For contracts over £100k, prior approval to seek tenders is required by the Constitution in line with the Contract Procedure Rules. Framework Agreements should be used where possible in order to achieve efficiencies in the procurement process and ensure compliance with the Public Contract Regulations 2015.

Full due diligence upon the terms of the agreement shall be undertaken prior to acceptance of the tender.

Acceptance of the tender following the framework mini competition is delegated to the Head of Service and approved by the Head of Finance.

#### **7. POLICY AND EQUALITIES IMPLICATIONS**

- 7.1 The procurement process will have regard to Council procurement guidance and EU procurement directives and the UK regulations. The procurement exercise will enable the Council to meets its statutory duty to facilitate the adaptation of disabled people's homes, to keep them safe and accessible, as set out in the Housing Grants, Construction and Regeneration Act 1996 and subsequent regulations. The DFG policy will be amended to ensure compliance with Regulatory Reform (Housing Assistance) (England and Wales) Order 2002.

#### **8. CONCLUSION**

- 8.1 The procurement exercise should continue as planned to provide a holistic and end to end service for customers who need lifting equipment as part of their DFG funded adaptation.

No background papers

<b>Subject:</b>	River Wall at Victoria Way, Rawtenstall	<b>Status:</b>	For Publication
<b>Report to:</b>	Full Council	<b>Date:</b>	23 <sup>rd</sup> September 2020
<b>Report of:</b>	Facilities Management Officer	<b>Portfolio Holder:</b>	Resources
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	<b>General Exception</b>	<input type="checkbox"/> <b>Special Urgency</b> <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No	Attached: No
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: No
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## 1. RECOMMENDATION

- 1.1 To approve £100,000 additional capital funding for the reconstruction of the retaining river wall at Victoria Way, Rawtenstall.

## 2. PURPOSE OF REPORT

Following the approval of the £250k capital monies at Full Council the works to rebuild Victoria Way retaining river wall was tendered and this has identified that the total cost of the works is higher than anticipated and this additional funding requires members' approval.

## 3. BACKGROUND

- 3.1 £250k of capital was approved by Full Council on the 15<sup>th</sup> July 2020 for works to rebuild Victoria Way retaining river wall in Rawtenstall. The works were tendered with a return date of 7<sup>th</sup> August 2020. The lowest tender received following adjustments was £350k.
- 3.2 The tendering process revealed the complexity of the temporary works required given the river site. These works will enable the main rebuilding works to the wall to commence i.e. temporary access road, temporary propping and stabilisation of culvert up stream of wall, access from gas works and working platform within the river. The scale of these temporary works was not anticipated to this extent in the original tender. Therefore additional funding is required to be approved for £100k.
- 3.3 A claim was submitted to the Council's insurance company Zurich and a loss adjustor has confirmed that the reconstruction of the wall falls outside the remit of the Council's insurance policy. The account manager has confirmed that such structures, that is retaining river walls, are normally not insurable.

## 4. RISK

- 4.1 The council has the licence from the Environment Agency to proceed with the works which is for a 12 month period. However, if the works are not started for 1<sup>st</sup> October 2020 they cannot begin until May 2021 because of spawning season. If the works are left until next May with higher river levels over the winter period there is a risk of a further collapse of the wall or land putting the Victoria Way industrial units in jeopardy.

## 5. FINANCE

- 5.1 As at 31<sup>st</sup> March 2020 the council had £2.082m of unallocated capital receipts. Officers will give consideration as to the optimum funding arrangements, which may include: use of capital receipts, internal borrowing and any other requirements for PWLB borrowing.

## 6. LEGAL

- 6.1 There are a number of aged leases which appear to include the river wall within its red edge save for one lease where the red edge falls short of the river wall. As the Council has seen with its policy, it is unlikely that the tenants' insurers will cover the cost of repair to the wall and it is further unlikely that the tenants will be in a position to contribute. Officers are conducting an audit to ascertain cover and all reasonable attempts will therefore be made to seek recovery of apportioned costs from the tenants under the terms of the lease where the Council is able to do so. The works need to progress in order to protect the council's assets and to ensure further damage does not occur during future inclement weather.

## 7. POLICY AND EQUALITIES IMPLICATIONS

- 7.1 No policy or equalities implications.

## 8. CONCLUSION

- 8.1. Additional capital funding is required for the reconstruction of the retaining river wall at Victoria Way, Rawtenstall.

Background papers	
Reconstruction of River Wall – Full Council, 15 July 2020	<a href="https://www.rossendale.gov.uk/meetings/meeting/1199/council">https://www.rossendale.gov.uk/meetings/meeting/1199/council</a>