

CABINET

Supplementary Agenda

Place

Town Hall, Wellington Street, Woolwich SE18 6PW

Date

Wednesday, 17 October 2012

Time

7.00 pm

This meeting is open to the press and public.

Councillors

Chris Roberts (Chair)	Leader of the Council
Peter Brooks (Vice-Chair)	Deputy Leader
John Fahy	Health, Adults and Older People
Denise Hyland	Regeneration, Enterprise and Skills
Sajid Jawaid	Customer & Community Services
Peter Kotz	Cultural & Creative Industries
Maureen O'Mara	Community Safety & Environment and Chair of Licensing
Steve Offord	Housing
Harpinder Singh	Greener Greenwich
Jackie Smith	Children's Services

Members are reminded that Officer contacts are shown at the end of each report and they are welcome to raise questions in advance with the appropriate Officer. This does not prevent further questioning at the meeting.

If you require further information about this meeting please contact the Committee Officer:

Robert Sutton

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Agenda

Greenwich
West;
Woolwich
Riverside;

13 Greenwich & Woolwich foot tunnels refurbishment project - Progress and Scheme and Estimate Report

The Cabinet is requested to note progress made on the Greenwich & Woolwich foot tunnels refurbishment scheme; note the actions taken to protect the Council's financial position; authorise the Director of Regeneration, Enterprise and Skills to procure an alternative specialist contractor to complete the works to the extent described within this report; note the Council has appointed expert legal advisors on construction contracts to assist with identifying the best way of recovering the Council's additional costs from the relevant contractors; note the Chief Executive is to appoint an independent, external, expert to undertake a review of arrangements utilised by the Council to deliver the large scale construction projects to ensure robustness of the project management arrangements; agree to consider the information detailed in the Exempt Appendix (Item 14) as exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act, 1972 is likely to be made known.

14 Greenwich & Woolwich foot tunnels refurbishment project - Progress and Scheme and Estimate Report: Exempt Information

Report to follow.

Date of Issue
12 October 2012

Mary Ney
Chief Executive

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CABINET	DATE 17 October 2012	ITEM NO 13
TITLE Greenwich & Woolwich foot tunnels refurbishment project – Progress and Scheme and Estimate Report	WARD (S) Greenwich West, Woolwich Riverside	
DECISION CLASSIFICATION Key	28 DAY NOTICE No	
CHIEF OFFICER Director of Regeneration Enterprise and Skills	CABINET MEMBER Regeneration Enterprise and Skills	

I. Decisions Required

The Cabinet is requested to:

- I.1 Note progress made on the Greenwich & Woolwich foot tunnels refurbishment scheme as set out in this report.
- I.2 Note the actions taken to protect the Council’s financial position as set out in this report.
- I.3 Authorise the Director of Regeneration, Enterprise and Skills to procure an alternative specialist contractor to complete the works to the extent described within this report.
- I.4 Agree to consider the information detailed in the Exempt Appendix (Item 14) to this report in closed session under the provisions of the Local Government Act 1972, schedule 12A, on the following ground:

Para 3 – “Any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services”.
- I.5 Agree that exempt information detailed in the Confidential Appendix (agenda item 14) to this report be not subsequently released to the press or public.

(n.b. Item 14 is to follow)
- I.6 Note the Council has appointed expert legal advisors on construction contracts to assist with identifying the best way of recovering the Council’s

additional costs from the relevant contractors, who undertook the original work, and to produce an analysis of the position.

- 1.7 Note the Chief Executive is to appoint an independent, external, expert to undertake a review of arrangements utilised by the Council to deliver the large scale construction projects to ensure robustness of the project management arrangements, as set out in paragraph 5 of this report.

2. Reason For Decision

- 2.1 At the current time work on the refurbishment of the foot tunnels remains incomplete. This is providing an unacceptable and deteriorating environment for tunnel users. It is also increasing the risk that any formal action against contracted parties that may be recommended may be compromised through deterioration in the condition of finished work at the tunnels.
- 2.2 A decision is needed to enable works to progress so as to provide a satisfactory environment for tunnel users and to protect the Council's position in respect of any future legal or other action. The Chair of Overview and Scrutiny has agreed that the matter is urgent and that Cabinet can consider this matter despite the required notice not being given.

3. Background

- 3.1 The refurbishment of the Greenwich and Woolwich foot tunnels is a uniquely complex and specialist project. The project comprises the replacement of bespoke lifts and mechanical & electrical equipment and controls, investigation and remedial works to protect the structural integrity of the tunnels and shafts works, works to improve the (chiefly rotunda roof) appearance and life of the structure and works to improve the personal security of users to meet current day expectations. The age, unique heritage nature of the tunnels, the confined nature of the site and the lack of accurate historical construction/maintenance records presents a unique degree of complexity and project challenge.
- 3.2 In February 2010 the Council accepted a tender from Dean & Dyball Civil Engineering (DDCE) for the refurbishment of both foot tunnels. The contractor was procured in open competition following EC procurement rules. Works were initially scheduled to be completed in 12 months with minimal closures to the public.

- 3.3 Recognising the special nature of this project, Messrs Sweett were engaged as project managers and quantity surveyors with Hyder Consulting Ltd (Hyder) engaged as Lead Designer & Engineer. Both firms were engaged using existing term/framework contracts held with the Council. The role of Sweetts was to manage the project through issuing instructions to the contractor consistent with the original brief, to monitor and manage progress and to value works undertaken. The role of Hyder was to design elements of the work consistent with the original brief and to certify completion of certain works.
- 3.4 The budget for the works was £11.398m funded primarily by Government grant. The works commenced in March 2010. However the project did not run to schedule and various costs exceeded estimates.
- 3.5 In September 2011, DDCE agreed an enhanced programme of work which would have resulted in the lifts being operational by Xmas 2011. This programme necessitated additional closures and recognised the importance of completing the works and specifically freeing a working pound so that the refurbishment of the Cutty Sark and the Gardens could be completed in time for the scheduled opening in 2012.
- 3.6 Recognising that the performance of the external contractors had not been adequate, Council officers engaged in a much more intense scrutiny of the project from September 2011. As a result of this scrutiny it became clear that even the agreed (reduced scope) work would not be achieved by Xmas 2011.
- 3.7 It was clear that the existing contract and management arrangements needed to be replaced if (i) the Greenwich Tunnel was to be fit for use and (ii) access was available to enable completion of the improvements to Cutty Sark Gardens in time for the Royal opening of the restored Cutty Sark.
- 3.8 Council Officers consequently took over the direct project management and pro-active control of the project. The Council required the contractor to complete all possible outstanding works and to vacate the site by 16th December 2011. The Council also terminated Messrs Sweett & Hyder from their roles.
- 3.9 The overseeing manager was replaced by a Council project manager dedicated solely to the various works in Cutty Sark Gardens who has overseen the remainder of the works to date and an alternative contractor was appointed.

3.10 Between December 2011 and March 2012 the Council utilised the Council's framework contractor to undertake works such that (by the end of March 2012): (i) The Greenwich tunnel was open with working lifts & a new roof at the south rotunda (ii) The Woolwich tunnel was open but without lifts. (iii) Various renovation & upgrade works had been undertaken at both tunnels (iv) interim arrangements had been put in place to make the site safe and secure so as to protect the Council's interest going forward.

4. Current position

4.1 Works at both tunnels have now ceased. Certain equipment and supplies essential for the eventual completion of the project is in the Council's possession and in store.

4.2 Formal negotiations have taken place with DDCE around the value of the proportion of the work they have undertaken. They have made a number of settlement offers. Officers have disputed a number of their claims and have been clear that interim settlement offers they have made are unacceptable. The most recent settlement offer is being evaluated.

4.3 The work required to complete the refurbishment of the tunnel will exceed the budget identified. These would essentially comprise (i) installation of lifts at Woolwich foot tunnel (iii) re-roofing of Greenwich north and both Woolwich rotunda (iv) infrastructure to improve personal security on all stairways (v) deep cleaning and other miscellaneous works. If Members agree to re-commence the works it is assessed that they would be completed within 4 months of re-commencement.

4.4 Legal advice is being sought from a firm of Specialist Construction Lawyers in relation to the case for recovering the additional costs incurred. The case being put together for the Council is designed to recover the additional costs of completing the project and the costs of remediation of any work identified as faulty or negligent. The specialist legal team will need to undertake a forensic Analysis of all documentation relating to the project as a precursor to providing their advice and pursuing the appropriate legal action.

4.5 Legal advice is also being sought to determine how best to recover all of the additional cost – whether through direct legal action and/or through any dispute resolution mechanisms within the contract terms and/or through further negotiation with the contracted parties.

4.6 In addition, in the interim, if any of the 3 contractors respond to Council tenders, their performance on these contracts will be taken into account.

5. Scrutiny of the Arrangements

5.1 The failures in delivery of these refurbishment projects needs to be fully identified and examined, not only to pursue the Council's claims against contractors, but also to identify the extent and nature of the failure of the management arrangements and the lessons to be learned from this. In addition, it is prudent to undertake a speedy review of the Council's arrangements in relation to the management of other large scale construction projects to ensure they are robust, fit for purpose and do not give cause for concern. The Council does have a good track record in managing large scale capital projects to budget and on time, eg the Eltham Centre, the Woolwich Centre, Housing Renewal Contacts. However, in the light of this experience, it is vital that an immediate and speedy check is undertaken and that an independent scrutiny is produced.

5.2 It is, therefore, proposed to appoint an independent person on the following basis

Immediately:

a) To review the Council's arrangements for the management of large scale capital projects

and subsequently:

b) To consider the Analysis of the Specialist Construction Lawyers referred to in 4.6 above and recommend any further improvements to the Council's arrangements for the future.

c) To utilise the Specialist Construction Lawyer's analysis of the documentation to detail for the Council any management issues which should be pursued.

5.3 The Independent Person will be appointed by and report to the Chief Executive. This report will be presented to the Cabinet.

6. Financial Implications

6.1 The report seeks agreement for the approval of additional expenditure to complete the refurbishment of the foot tunnels and for the appointment of an independent, external expert to undertake a view.

- 6.2 At this stage, the expenditure relating to this project remains commercially confidential due to the legal dispute resolution processes, as well as protecting the price of any future procurement for the further works required in order to ensure good stewardship of public funding.
- 6.3 It is expected that any liabilities resulting from this project can be met from within the Council's overall financial standing.
7. Comments of the Head of Law and Governance
- 7.1 Issues will arise in the future in relation to the award of contracts, the provision of services and the possible litigation referred to in paragraph 4.4 of the report and full legal comments will be provided as appropriate.
- 7.2 In relation to the aspect of the report which relate to further work, no legal issues currently arise as no legal obligations are created by the decision.

Background Papers: None

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