

**REGISTER OF URGENT  
DECISIONS OF THE EXECUTIVE**

**NORTH DEVON COUNCIL CONSTITUTION**  
– Appendix 12



Reference No: 2018/02

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- 1) **SUBJECT:** Museum of Barnstaple & North Devon Long Bridge Wing Extension Project. Request for additional capital funding.
- 2) **REQUESTED DECISION:** Herbert H Drew were appointed as building contractors for the museum extension project on 13<sup>th</sup> April 2018. On 3<sup>rd</sup> May 2018 Herbert H Drew went into administration and the contract with North Devon District Council was rescinded. No fees have been paid to Herbert H Drew.

Additional funding is now required to appoint an alternative contractor to deliver the project. Devon Contractors finished second in the tender process for the construction contract. Devon Contractor's tender price for the contract was £55,500 higher than Herbert H Drew's tendered price.

This report requests that the Capital Programme is varied by £55,500 (funded as set out in section 4,) and funds be released to enable the appointment of the alternative contractor and to avoid the project stalling.

- 3) **STATEMENT OF THE REASONS FOR THE REQUEST AND WHY IT IS URGENT:**

If an alternative contractor isn't appointed as soon as possible there is a risk of escalating costs and the project becoming unviable.

Over £1.6 million of external funding has been secured for the museum extension project to date, but if there are delays to the build and costs escalate, funding could be withdrawn.

£40k has been received for the project from Arts Council England (ACE). This funding is for various electrical engineering parts and the funds need to be spent by NDC before the end of May. If NDC doesn't spend the funds before end of May they will have to be returned to ACE. It is vital therefore that NDC appoints a contractor before the end of May so that it can order the parts and clear the funds in line with ACE funding conditions.

- 4) **FINANCIAL IMPLICATIONS:**

If the request at point 2 above is agreed, the £55,500 will be allocated from the Capital Receipts Reserve.

5) ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

The alternative to appointing Devon Contractors is to re tender the construction contract and hope that the tenders will come in lower. There is however no guarantee that costs will be lower (they may increase,) and there will be additional fees for architects, structural engineers, mechanical & electrical engineers.

6) A RECORD OF ANY CONFLICT OF INTEREST DECLARED: None

7) A NOTE OF ANY DISPENSATION IF GRANTED: None

8) THE CONSENT OF THE CHAIRMAN OF THE OVERVIEW AND SCRUTINY COMMITTEE WAS OBTAINED ON:

21/05/18

9) LIST OF BACKGROUND PAPERS (but not including published works or those which disclose exempt or confidential information (as defined in rule 10 of appendix 15 (Access to Information Procedural Rules) and the advice of a political advisor):

- Urgent Decision notice Ref 2018/01

10) CONSULTATION UNDERTAKEN:

The following have been consulted on this urgent decision:

Consultee	Consulted Yes/No	Date
Executive Member	Yes	18/05/18
Ward Member(s)	Yes	18/05/18
Chief Executive	Yes	18/05/18
Head of Service – Ken Miles	Yes	17/05/18
Legal	Yes	17/05/18
Finance	Yes	17/05/18

11) APPROVED BY DECISION TAKER



Councillor Des Brailey MBE, Leader

12) NOT APPROVED BY DECISION TAKER

13) DATE THAT DECISION WAS TAKEN:

21<sup>st</sup> May 2018

# GUIDANCE NOTES

NOTE: ALL REFERENCES TO SUB-PARAGRAPHS REFER TO APPENDIX 12 OF THE CONSTITUTION

## PROCEDURE FOR DECISIONS WHICH MAY BE CONTRARY TO ADOPTED PLANS AND STRATEGIES (INCLUDING THE BUDGET):

1. The Chief Executive must notify the Leader/Deputy Leader/Other Executive Member.
2. The Leader/Deputy Leader/Other Executive Member must approve the use of the procedure and notify the Chief Executive of his approval together with his reasons.
3. The Chief Executive must notify the Chairman of the Overview and Scrutiny Committee or if unable to act the Chairman of Council or if absent the Vice-Chairman to seek his determination as to whether the conditions detailed in paragraph 1.1 (b) (i), (iii) or (iv) are satisfied.
4. The Chairman of the Overview and Scrutiny Committee or if unable to act the Chairman of Council or if absent the Vice-Chairman, must confirm to the Chief Executive in writing that the proposed decision is urgent and that either of the conditions identified in paragraph 1.1 (b) (iii) or (iv) have been satisfied, the Chief Executive shall advise the Leader, Deputy Leader or other member of the Executive that the decision may be taken by a person or body possessing a relevant power to make such a decision.
5. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor (s).

## PROCEDURE FOR DECISIONS WHICH ARE WITHIN THE ADOPTED PLANS AND STRATEGIES (AND CAN NOT BE INCLUDED IN THE FORWARD PLAN):

1. If the Chief Executive considers that the conditions in sub-paragraph 2.1 are satisfied, he must notify the Proper Officer of the need for the decision, the reasons why it was impracticable for it to be included in the Council's Forward Plan, and whether or not the decision is required to be taken within five working days.
2. On receiving the notification, under sub-paragraph 2.3 and where satisfied that no decision is required to be taken for five working days, the Proper Officer shall:
  - (a) notify in writing the Chairman of the Overview and Scrutiny Committee or if there is no such person, each Member of the Overview and Scrutiny Committee, with particulars of the proposed decision, the

reasons for its urgency and the reasons for it being impracticable to include in the Council's Forward Plan;

- (b) make available for public inspection at the Council offices a copy of the written notice given to the Chairman of the Overview and Scrutiny Committee about the decision.

3. Decisions to which sub paragraph 2.4 applies, shall not be made until after five working days have elapsed following publication of the proposed decision under 2.4 (b) of Appendix 12 in the Constitution.

4. Where it appears to the Chief Executive that an urgent decision-

- (a) meets the requirements of sub-paragraph 2.1 of Appendix 12 of the constitution; and
- (b) because of the urgency cannot be deferred for five working days,

he shall seek the agreement and confirmation in writing on both those points from-

- (c) the Proper Officer; and
- (d) the Chairman of the Overview and Scrutiny Committee or in his absence the Chairman of Council or if there is no Chairman the Vice-Chairman of Council;

and the person or body possessing a relevant power to make the decision may proceed to make it only when the necessary agreement and confirmation have been obtained.

5. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor (s).