

OFFICER DECISION RECORD (ODR 2)

Date of Decision	23 January 2025
Decision Taker	Charles Jarvis Head of Economic Development
Specific Delegation	Economy and Growth Committee 12 March 2024 - RESOLVED (unanimously): That the Committee authorise the Head of Economic Development to select and enter into a contract with a provider to deliver refurbishment works to Macclesfield Indoor Market, noting the value of the contract will exceed £1,000,000.
Brief Description of Decision	<ol style="list-style-type: none"> 1. To increase the construction phase of the Macclesfield Market Refurbishment project under the contract with F Parkinson Ltd by £100K from £1,344, 930.08 up to a maximum contract value of £1,444,930.08. 2. To draw down the additional £100K UKSPF funding from the budget approved for this project for those contracted construction works.
Reasons for the Decision and alternatives considered	<p>On 20 July 2022, full Council delegated authority to the Executive Director Place to manage the Cheshire East UKSPF 2022-25 programme, taking all necessary actions in the interests of maximising the impacts of the fund aligned to the fund parameters and local priorities and aligned to the core UKSPF Investment Plan.</p> <p>On 16th November 2023, a programme of projects to be offered UKSPF funding was approved by the Director of Growth and Enterprise (Acting as Executive Director of Place). That programme of projects included the Macclesfield Indoor Market Refurbishment (MIMR) project, which was awarded £1,269,400 comprising capital and £80,000 revenue.</p> <p>On 19 December 2023, the Head of Economic Services authorised the Development & Regeneration Manager to procure feasibility stage design work to RIBA Stage 2 utilising the £80,000 of UKSPF revenue funding allocated to the project and to engage a constructor partner to develop the project designs to RIBA Stage 4.</p>

Subsequently, on 1 February 2024 the acting Executive Director of Place awarded a further £179,100 of UKSP to the MIMR Project.

On 27 February 2024 full Council approved the inclusion of the Macclesfield Indoor Market Refurbishment project (MIMR) as part of the Capital Programme. The capital allocation referenced the original UKSPF award of £1,269,400 but due to the timing of the papers, did not include the additional £179,100 awarded on 1 February.

Following a procurement through the North-West Construction Hub, F Parkinson was identified as the preferred contractor to undertake both pre-construction services and construction and on 17 May 2024 the Director of Highways and Infrastructure, acting under the Local Scheme of Delegation for the Interim Executive Director of Place, authorised entering into a staged contract with F Parkinson for both pre-construction services (RIBA Stages 3-5) and construction. However, it was noted at the time that that decision did not commit the Council to proceed beyond design work to construction at this stage and that a further formal decision would be required to move to any construction phase.

On 16th August 2024, the Interim Director of Finance and Customer Services/Section 151 Officer authorised the virement of £210,000 to the capital budget comprising the £179,100 referenced above and a further virement of £21,000, giving a total capital budget of £1,469,500 for the refurbishment works under capital code CAP-10478.

The above UKSPF allocations have been supplemented by a capital contribution of £30,000 from the Facilities Management budget to cover the cost of window replacements falling within general maintenance works.

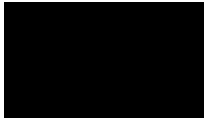
This in total resulted in an overall project budget of £1,579,500.

Construction started on the project in November 2024 and a number of issues have been raised which have impacted on both time and money, (a

	<p>flood in the market, trader fit outs of stalls has exceeded budget, trader's moves have proven more costly than budgeted for, the requirement to work out of hours and at weekends to ensure delivery by the end of March 2025, as per the UKSPF requirements), hence the request and approval for an additional £100K.</p> <p>There is a need to proceed at pace given the deadline for spend of UKSPF. This ODR records a decision to increase the construction stage of the contract with F Parkinson by £100K and to draw down this extra amount of UKSPF allocated for this project. F Parkinson are aware of the need for the work to be undertaken within the budget and time allocated from UKSPF to avoid any costs falling to CEC and this will be ensured.</p>
<p>Member consultation and interests declared</p>	<p>This project was reported to the Economy and Growth Committee on 12 March 2024.</p> <p>Local members were updated on progress in July 2024.</p>
<p>Significant Decision</p>	<p>YES</p>
<p>Legal Implications</p>	<p>I approve and endorse this ODR on the following basis:</p> <ul style="list-style-type: none"> • It complies with the Council's constitution; • Is entered into further to the delegation from committee noted above; • the contracts which are to be entered into as noted in the decision are compliant with the public contract regulations; having been called off from frameworks that are compliant. • as noted above there is a risk inherent in the decision to the construction phase under the contract with F Parkinson Ltd if a trader by refusing to move causes the project to stall whereby the Council in a worse case scenario may have to compensate F Parkinson Ltd in terms of the Abort Costs referred to above. It is understood that the decision maker having made an assessment of the position is prepared to proceed, on the basis that failure to do so puts at risk the ability of the Council to utilise the UKSPF

	<p>Funding which may otherwise be lost. If in the scenario whereby the Council is called on to pay the Abort Costs, consideration should also be given to the fact that if the UKSPF funding is subject to clawback provisions, in a worst case scenario the Council may be at direct risk of having to itself pay the Abort Costs.</p> <p>Adrian Leslie - Lawyer Contracts & Procurement Team</p> <p>adrian.Leslie@cheshireeast.gov.uk</p> <p>23 August 2024</p>
Financial Implications	<p>The Macclesfield Indoor Market Refurbishment scheme has a maximum capital allocation of £1,469,500 to be spent and delivered by 31 March 2025. The budget lies within CAP-10478. This decision would increase that to £1,569,500.</p> <p>It would continue to be wholly funded through UK Shared Prosperity Fund and the funds have been received by the Authority in full and in advance.</p> <p>There would now be a maximum of £1,444, 930.08 earmarked for the Parkinson contract and this decision falls within that value. It is assumed that the contract allows for increases.</p> <p>In approving this it is likely that the contractor will place orders which will commit the Authority to expenditure. The project needs to be materially complete by 31 March 2025 when the funding window for UK SPF closes.</p> <p>The risk of sunk costs being subject to clawback is considered low where best endeavours have been made to deliver an outcome. Abortive and compensatory costs may be treated differently and thus it is important to understand what our contractual exposure is and how we would come to a conclusion on the most optimal outcome.</p> <p>Therefore, the decision taker needs to consider what is the most optimal outcome for the Council versus the most likely outcome. Finance will assist where necessary but the decision taker should be aware of the pressures within the Authority's MTFS</p>

	<p>when considering the scale and likelihood of any abortive costs or the impact of delay meaning that the project was not materially complete by 31 March 2025.</p> <p>Aaron Lecroy, Principal Accountant, 22 January 2025</p>
Confidential/Exempt Information	No
Background Papers	<p>ODR 16 Nov 2023 – Allocation of UKPSF for Macclesfield Market Refurbishment</p> <p>ODR 1 Feb 2024 – award of additional UKSPF</p> <p>Report to Full Council February 2024 – Inclusion of project in capital programme</p> <p>Economy & Growth Committee Report 12th March 2024</p> <p>ODR 3 – Decision to proceed to contract</p> <p>ODR 19 June 2024 – Authority to enter into new operational agreements</p> <p>ODR 16 Aug 2024 Virements</p>

Signed 

Charles Jarvis, Head of Economic Development

Dated 23 January 2025.....