

**FORM 2**

**NOTICE OF DECISION OF CABINET MEMBER**

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated to me, I have made the following decision:

<b>Subject</b>	<b>Decision</b>	<b>Reason for decision</b>	<b>Date for Decision to be taken</b>
<b>The procurement of a suitable contractor to deliver the redevelopment of the Kidderminster Creative Hub (former Magistrates Court), Kidderminster.</b>	Approved	To appoint a contractor to enable delivery of the project by the 31.02.2024 deadline.	10.03.2023

**I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.**

Dated: 10.03.2023



Signed:

Councillor: Cllr Helen Dyke, Leader of the Council and Cabinet Member for Economic Regeneration, Planning and Localism  
Leader

**WYRE FOREST DISTRICT COUNCIL**

**CABINET DECISION FOR STRONG LEADER APPROVAL**

**10 MARCH 2023**

**The procurement of a suitable contractor to deliver the redevelopment of the Kidderminster Creative Hub (former Magistrates Court), Kidderminster.**

<b>CABINET MEMBER:</b>	Councillor Helen Dyke, Leader of the Council and Cabinet Member for Economic Regeneration, Planning and Localism
<b>RESPONSIBLE OFFICER:</b>	Ostap Paparega, Head of North Worcestershire Economic Development and Regeneration
<b>CONTACT OFFICER:</b>	Clayton Maponga, Programme Delivery Manager, NWEDR
<b>APPENDICES</b>	EXEMPT Appendix 1 – Summary of BAM submission dated 10 March 2023

**1. PURPOSE OF REPORT**

- 1.1 To seek Cabinet approval to appoint a contractor to undertake the works to the Kidderminster Creative Hub following the re-profiling of the original project scope of works on the Kidderminster Creative Hub (former Magistrates' Court).
- 1.2 The project was reprofiled in November 2022 due to rising construction costs to exclude the construction of the new office block wing, the link building and the refurbishment of the existing weaving sheds. A Project Adjustment Request (PAR) was submitted to DLUHC for approval on 1<sup>st</sup> December 2022 and the approval was granted on the 1<sup>st</sup> March 2023.

**2. RECOMMENDATION**

**2.1 The Cabinet is recommended to:**

- a) **APPROVE** that the construction contract in respect of the former Magistrates' Court should proceed so far as it relates to the refurbishment and adaptation of the listed building and the public realm works in Worcester Street including the Coronation Gardens and Worcester Cross.
- b) **APPROVE** the appointment of BAM Construction Limited Ltd to deliver the project as outlined above.
- c) **AGREE** that the other elements of the project (new office block, link building and weaving sheds) should not proceed at this time and should be progressed only when alternative funding has been identified and included in the capital programme.

### **3. BACKGROUND**

- 3.1 In March 2019 the Council responded to the Government's prospectus (launched in late December 2018) for transformational town centre proposals under the newly established Future High Streets Fund (FHSF). In August 2019 the Council was notified that it was one of the first 50 successful expressions of interest to be approved and the Council was awarded £150k and invited to develop and submit a full HM Treasury Green Book compliant business case. Following some Government re-scheduling of the deadline for submitting the full business case due to the impact of the Covid19 pandemic, the Council finally submitted its case in June 2020. Against a programme envelope of £25m per authority the Council's bid was for £20.51m comprising interlinked elements which would enable the continued delivery of the strategy to re-balance the town on its west/east axis to improve outcomes for the eastern side of the town.
- 3.2 On 26th December 2020 the Government announced the award of funding for projects across the country under the Future High Streets Fund Programme and the Council was one of 15 successful applicants to be awarded funding unconditionally (57 further projects received provisional funding). The Council received its full £20.5m funding request, the fifth highest award of all bidders.
- 3.3 At its meeting on the 9<sup>th</sup> February 2021, Cabinet agreed to recommend to Council that the Capital Programme should be amended to accommodate the award of the Future High Streets Fund programme. This was subsequently agreed by full Council at its meeting on 24<sup>th</sup> February 2021.
- 3.4 The projects comprising the bid were the improvement of the former Crown House site and Bullring as a gateway into the town with wider public open space, a multi-functional market and events space and to release some commercial development potential of the site; the acquisition of key properties in Worcester Street to improve the connectivity between the east and west axis of the Town Centre and finally the refurbishment and repurposing of the former Magistrates' Court and indoor market as a new creative hub.
- 3.5 The most complex project of the FHSF is the redevelopment of the former Magistrates Court. Planning application was submitted and considered by the planning committee in January 2022 and subsequently approved on 8 March 2022.
- 3.6 The Council had already appointed professional teams in 2020 and 2021 and in 2022 undertook the procurement process of a preferred contractor through a two-stage design and build process to assist in the development of detailed designs and construction of the project.

### **4. KEY ISSUES**

- 4.1 The former Magistrates' Court project was allocated £12,905,000 as part of the FHSF programme. As of 21<sup>st</sup> February 2023, £1,919,918 has been spent or committed on design fees and other associated costs (including professional fee commitments to the end of the project) leaving a residual construction budget of £10,985,082. For the construction phase, the council undertook a two-stage design and build procurement

process. At the end of stage one, a preferred contractor was selected to progress to stage two at the end of which a tender sum was submitted to the council.

- 4.2 The contractor tender sum submitted at the 2<sup>nd</sup> stage design and build procurement process (October 2022) was £13,149,212.90, which was significantly over budget. This triggered a review of the scope of the project to bring the cost within the available budget. The revised scope was then submitted for approval to government on 1 December 2022 via a Project Adjustment Request (PAR). The appointment of the contractor was put on hold while the PAR was being assessed, as required by the government. The estimated assessment time given by the government was six to eight weeks. In the end the assessment project took 12 weeks and the government confirmed the PAR approval on 1 March 2023.
- 4.3 The need to review the scope was triggered the significant increase in construction costs year on year. It is not surprising that estimated costs for a project originally scoped four years ago and with a cost profile updated in the bidding process three years ago should now be found to be unaffordable. In the last year or more, construction and material costs have increased sharply as part of the general inflationary increases in the economy and because of factors exacerbated by the illegal invasion of Ukraine. For example, the latest data from the Department for Business, Energy and Industrial Strategy in its monthly Building Materials and Components Index reveals that the cost for other new work (e.g. other than housing and repairs & maintenance) increased by 21.9% between August 2021 to August 2022.

### **Year-on-year change (August 2021 to August 2022)**

New Housing	13.5%
Other New Work	21.9%
Repair & Maintenance	13.0%
All Work	17.8%

- 4.4 The revised scope of works, as approved by the government on 1 March 2023, includes the refurbishment of the Grade II listed building; improvements to the public realm in front of the building; improvements to the Coronation Gardens and Worcester Cross repairs. To deliver all these works, the contractor submitted on 3 March 2023 a revised tender sum of £10,343,488.98 which falls within the available budget envelope. Appendix 1 shows the cost analysis between 2<sup>nd</sup> stage submission (November 2022) and 3 March submission.
- 4.5 The revised scope of works excludes the new office block, link building and the full refurbishment of the weaving sheds, which can proceed only when alternative funding has been identified and included in the capital programme. The approved capital allocation for the FHSF projects included £1.25m of WFDC's own investment, but in addition to the existing Capital Portfolio Fund. In the Cabinet report in February 2021,

the sum was explicitly allocated “towards the new build element of the refurbishment of the former Magistrates’ Court building”. As that element (new office block) is now being excluded from the scope of the project, the £1.25m allocation is not needed for this project. This has been explained in the PAR and accepted by the government.

4.6 The Project Delivery Timetable is as follows:

Task	Date
PAR Submission to DLUHC	01 December 2022
PAR Approval by DLUHC	1 March 2023
Contractor Submit their Revised Tender Sum	24 February 2023
WFDC Review, Clarification and Agreement of Contractor Submission	27 February – 10 March 2023
Contract Award and Instruction	10 March 2023
Contractor Mobilisation	10 March – 17 March 2023
Contractor Start on Site	20 March 2023
Practical Completion	18 March 2024

**5. FINANCIAL IMPLICATIONS**

5.1 All costs for this project are covered by the government through the Future High Streets Fund (FHSF). The former Magistrates’ Court project was allocated £12,905,000 as part of the FHSF programme. As of 21<sup>st</sup> February 2023, £1,919,918 has been spent or committed on design fees and other associated costs (including professional fee commitments to the end of the project) leaving a residual construction budget of £10,985,082. On 10 March 2023, the contractor submitted its revised tender sum of £10,343,488.98. This leaves a residual project budget of £641,593.02.

5.2 The contractor appointment is through a design and build contract, which means that any financial risks after signing the contract are borne by the contractor.

**6. LEGAL AND POLICY IMPLICATIONS**

6.1 Given that the value of the contract will exceed £175,000, Cabinet approval is required for the scope variation, as outlined in section 11 of the Contract Procedure Rules.

**7. EQUALITY IMPACT NEEDS ASSESSMENT**

7.1 This report relates solely to the variation of the original construction scope for the development of the Kidderminster Creative Hub site in Kidderminster. The fundamental principles of no discrimination and transparency relate to all construction activities; there is no requirement for an Equality Impact Assessment

## **8. RISK MANAGEMENT**

- 8.1 A Project Board has already been established to oversee the delivery of the Future High Streets Fund programme and monitors the risk register regularly at its meetings. The appointed contractor will be required to report into the Project Board to ensure that the work is delivered in line with the revised specification as instructed.

## **9. CONCLUSION**

- 9.1 Due to the value of the proposed contract, authorisation is required to appoint the contractor for the delivery of the project. The key issues which have necessitated the decision have been provided in Section 4 of this report.

## **10. CONSULTEES**

- 10.1 CLT

## **11. BACKGROUND PAPERS**

- 11.1 Cabinet Decision for Strong Leader Approval 22 April 2022 – Procurement of Construction Contractor

11.2 ReWyre Initiative: A Prospectus for Regenerating Kidderminster, September 2009

11.3 Kidderminster Central Area Action Plan, July 2014

11.4 Kidderminster Eastern Gateway, Delivery Framework, July 2016

11.5 Building materials and components statistics: September 2022 - GOV.UK  
([www.gov.uk](http://www.gov.uk))