

PEDESTRIAN HEART REVIEW FINAL REPORT

Introduction

1. This is the final report of the Pedestrian Heart Task and Finish Review Group, which was established by the Resources Scrutiny Committee, to look into the Pedestrian Heart Project to date, and to give oversight to a review of future capital project management.

Background Information

2. A report was submitted to Council on 28th September, 2006, seeking approval for further funding for the Pedestrian Heart scheme, including a contingency provision to cover future risks (**Appendix 1**).
3. At that Council meeting, Members agreed the following recommendations (**Appendix 2**) :
 - (a) That £586,000 be approved and released to fund the anticipated increase in the final out-turn cost of the Pedestrian Heart project;
 - (b) That £750,000 be approved and released as a contingency against future risks of the Pedestrian Heart project; and
 - (c) That the Resources Scrutiny Committee be asked to review the project to date, and to give oversight to a review of future capital project management.
4. The issue was considered at a meeting of the Resources Scrutiny Committee held on 19th October, 2006, and, at that meeting, it was agreed (**Appendix 3**) that a Task and Finish Review Group be established to investigate the issues as directed by Council. The terms of reference for the review were also agreed at this meeting (**Appendix 4**).

Membership of the Review Group

The membership of the Review Group was :-

Councillor Ian Haszeldine, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Rod Francis, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Cliff Hutchinson, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Charles Johnson, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Ron Lewis, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Jackie Maddison, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Tony Richmond, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Frank Robson, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Martin Swainston, Resources Scrutiny Committee, Darlington Borough Council;
Councillor Geoff Walker, Resources Scrutiny Committee, Darlington Borough Council; and
Councillor Eric Wilson, Resources Scrutiny Committee, Darlington Borough Council.

The Review Group was led by Councillor Ian Haszeldine.

(Note – (1) Councillors Hutchinson and Wilson were not in attendance at the Review Group meeting on the 13th November, 2006.

(2) Councillors Hutchinson, Richmond and Wilson were not in attendance at the Review Group meeting on the 22nd November, 2006.

(3) Councillor Bristow, Cabinet Member with Resource Management Portfolio, was in attendance at the meeting on the 13th November, 2006).

Acknowledgements

5. The Review Group acknowledges the support and assistance provided in the course of their investigations and would like to place on record its thanks to the following :-

Paul Wildsmith, Director of Corporate Services, Darlington Borough Council;
John Buxton, Director of Development and Environment, Darlington Borough Council;
Richard Alty, Assistant Director, Development and Regeneration, Darlington Borough Council;
Catherine Whitehead, Borough Solicitor, Darlington Borough Council;
Brian James, Chief Internal Auditor, Darlington Borough Council;
Craig Holden, Programme Manager, Darlington Borough Council;
Brian Dobinson, Head of Building Design Services, Darlington Borough Council;
Susan White, Procurement Advisor, Darlington Borough Council.

Method of Investigation

6. The Task and Finish Review Group met on 13th November, 2006, and, at that meeting, Members received a presentation (**Appendix 5**) from Keith German and Damien Jowett, from Clarus Consulting, a professional management and cost consultancy company, on their experiences of working with New Engineering and Construction Contracts (NEC Contracts) and the comparisons with standard type contracts such as the Joint Contracts Tribunal (JCT). The NEC Option D was the contract used for the Pedestrian Heart Project.
7. A second meeting of the Task and Finish Review Group was held on 22nd November, 2006, and Members received presentations from Catherine Whitehead, Borough Solicitor and Brian James, Chief Internal Auditor, (**Appendix 6**) on the award of the contract to Gillespies and Birse Civil and from Craig Holden, Programme Manager, on a review being undertaken within the Council of Capital Processes (**Appendix 7**).
8. Questioning of the representatives of Clarus and Officers of Darlington Borough Council was also undertaken at both of these meetings.
9. Both Birse Civil and Gillespies were requested to submit information either verbally or, in writing, to this Group on their working relationships with this Council and, to date, no response had been received.

Documents Examined

- (a) Council report 28th September, 2006;
- (b) Resources Scrutiny Committee report 19th October, 2006;
- (c) Darlington Borough Council and One North East Brief;
- (d) Darlington Borough Council, Contracts Procedure Rules;
- (e) Report of Clarus Consulting;
- (f) Pedestrian Heart Audit Services report and appendices; and
- (g) NEC/ECC Option D Contract.

Documents (a) to (d) are background papers to this report. Documents (e) to (g) contain information that is exempt but will be made available in an abridged form on request.

Findings

10. In relation to the Pedestrian Heart Contract, in general, the Council's Procedures and Protocols have been adhered to, however :-
 - (a) in respect of tendering of the design and Project Management role, some aspects of the award process could have been improved;
 - (b) there is no signed contract between the Council and Gillespies;
 - (c) the lack of experience of parties involved in the scheme of the NEC contract has undoubtedly caused difficulties in the early stages of the scheme;
 - (d) the review undertaken by Clarus Consulting highlighted a number of weaknesses in the project management of the contract;
 - (e) it is unclear from the information available at the present time, as to whether all compensation events are reasonable;
 - (f) complete information should have been provided to Members of the Tender Panel when the contracts were awarded;
 - (g) the role of Project Manager and Designer should have been awarded separately; and
 - (h) the complexity of the scheme was under-estimated at feasibility/design stage which has led to ongoing difficulties on site.
11. In relation to overall capital project management :-
 - (a) the group acknowledges that the Council has successfully delivered capital projects over the years, however, this was the first scheme of this kind;
 - (b) there is a need to fundamentally review the capital process to modernise it to take account of changing circumstances. A new process will need to address :-

- (i) clarity of roles with the management of projects;
- (ii) review of the role of Members throughout the process;
- (iii) clarity around the reasons for selecting contract types to be used;
- (iv) a fundamental review should be closely aligned to the procurement project to ensure a joined up approach; and
- (v) that the restructure within the Development and Environment Department ensures that that Team is established to meet the requirements of a modern project management methodology.

Recommendation

12. That it be recommended to the Resources Scrutiny Committee that Cabinet be advised that :-

- (a) all the recommendations in the Clarus report continue to be actioned and be monitored by appropriate Directors with progress reported to the Resources Scrutiny Committee;
- (b) a robust review of the tendering process, including all aspects of Member involvement be undertaken and aligned to the procurement project;
- (c) each contract award over the contracts procedure rules threshold must be based upon a clear and robust procurement/contract strategy;
- (d) all contracts referred to in (c) above, must be in place and be approved by Legal Services before payments are made under the contract;
- (e) that the Resources Scrutiny Committee fully endorse the establishment of a project to review the capital project management role and that it be involved in developing the system and overseeing its implementation; and
- (f) that the Council continues to review the Pedestrian Heart scheme to ensure that all payments made are appropriate.

Pedestrian Heart Task and Finish Review

Shirley Burton Ext 2233

Background papers

No background papers were used in the preparation of this report other than those referred to in this report.