

**South Lakeland District Council
Cabinet**

Wednesday 9 March 2022

**Contract award for Westmorland Shopping Centre
Multi Storey Car Park - Structural Repair works.**

Portfolio: Finance and Assets Portfolio Holder
Report from: Director of Customer and Commercial Services
Report Author: Sion Thomas – Operational Lead Delivery and Commercial Services
Wards: Kendal Town;
Forward Plan: As published on 08/02/2022

Links to Council Plan Priorities:

Delivering a balanced community – Using and protecting our assets to help support economic development growth in the Town Centres.

1.0 Expected Outcome and Measures of Success

1.1 Significant investment in Westmorland Shopping Centre Multi Storey Car Park to secure its life span for a further 25 years to support with the economic development of Kendal Town Centre.

2.0 Recommendation

2.1 It is recommended that Cabinet;

(1) Approves the award of contract to the recommended bidder being the most economically advantageous tender as noted in the Tender report in the Part II Appendix 1; and

(2) Delegates authority to the Director for Customer and Commercial Services in consultation with Lead Specialist for Legal, Governance and Democracy (Monitoring Officer) to enter into the appropriate contract for the works to commence .

3.0 Background and Proposals

Please note that in accordance with Section 100B(2) of the Local Government Act 1972, copies of Appendix 1 to this report are excluded from inspection by members of the public as they contain information as described in Schedule 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006, as follows:-

- Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Paragraph 3) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3.1 As part of the Council's Strategic Property review and general asset strategy, a condition review was undertaken of the Westmorland Shopping Centre Multi Storey

Car Park (WSCMSCP). Regular inspections have been undertaken over a number of years. Currently, the estimated life span of the structure is 10-15 years. To ensure that parking capacity remains at the current levels in Kendal, it is proposed to undertake works to the structure to ensure a life span of 25 years (min) with ongoing planned maintenance. It is felt that development in sustainable travel will be such that in 25 years, it is likely that demand for car parking will have reduced, however the development in sustainable transport is not currently advancing at a speed where the Council could foresee no need for the multi storey car park in 10 – 15 years. This work is therefore planned to protect the parking demand in the Town for the next 25 years and beyond if required.

- 3.2 Work has previously been undertaken to WSCMSCP in 2011 which consisted of a number of concrete repairs where concrete had delaminated and spalled. A Triflex coating was added to some levels and the external level was covered with a new heavy duty waterproofing by Triflex.
- 3.3 In 2015, further concrete repairs were undertaken. The expansion joints between the two structures which make up the car park were replaced with a mechanical joint system. A number of drainage works were undertaken and general decoration was undertaken to some areas.
- 3.4 The work for this project does not look to repeat/ re-do any of the works above but to install a new waterproofing deck coating to be installed on levels 3a, 3, 4 and 4a. This is to include all concrete vehicle ramps and any areas of existing asphalt surfacing. The works will ensure that all drainage channels, parapets, deck edges are included as part of the works.
- 3.5 The works were tendered in accordance with Rule 7.3 of the Contract Procedure Rules and three bids were received. The tender was advertised on the Chest and Contracts Finder for a minimum of 14 days, this was an open tender to all contractors who wished to submit a tender. The lowest bid being £607k. The original budget for the scheme was £455K. Following value engineering, re-painting works were removed as this was added with a view to completing the works whilst major works were being undertaken but not seen as essential and therefore tenderers were requested to re-submit costs to reflect these revisions. In response, 3 bids were received. With further value engineering needed to be undertaken to reduce down to original budget, it was agreed with the procurement department that negotiation could now take pace with the lowest tenderer who scored on cost and quality to reduce the scheme to meet with the budget. See Tender report Appendix 1.
- 3.6 The tender was evaluated on Cost (60%) v Quality (40%), to ensure that the Council do not just seek the lowest quote for their projects. Works are due to begin in April 2022. Full evaluation on Cost v Quality can be seen in the Tender report as shown in Appendix 1.
- 3.7 Whilst the works are underway, various sections will be closed to parking, however the car park will remain open at all times. Parking level in the Town is currently down compared to recent years and officers feel that the Town is able to cope with parking for the duration of works. Officers will monitor any impact re: the Covid vaccination centre and look to mitigate where needed.
- 3.8 Cabinet is asked approve the award of the contract as on the basis set out in Appendix 1 and to delegate authority to officers to enter into necessary contracts for the works.

4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Part II - Tender Report
2	Westmorland Shopping Centre – Specification and Bill of Quants.
3	Health and Sustainability Impact Assessment

5.0 Consultation

- 5.1 Consultation has taken place with Corporate Management Team, Portfolio holder, Asset and Commercial Officer and Delivery and Commercial Officer.
- 5.2 Consultation has also been undertaken with PRAXIS (agent for the current owner of Westmorland Shopping Centre, Longlands Limited) as their approval is required under the lease.
- 5.3 Signage will also be erected to confirm what levels will be out of use and when for members of public parking in the car park. A letter drop will be undertaken with neighbouring properties to inform of the works

6.0 Alternative Options

- 6.1 Do nothing – to not maintain the structure could lead to parts of the site closing in 10 years' time which will have a significant impact on the Town Centre viability.
- 6.2 Postpone the works – whilst this is an option, the works are needed and the concrete will only deteriorate further which will lead to increase in costs. Development in sustainable transport is also not developing at a speed which could offer a reason why this work should be delayed.
- 6.3 Award the contract to an alternative bidder – this is not recommended on the basis of the tender analysis in Appendix 1.

7.0 Implications

Financial, Resources and Procurement

- 7.1 The Procurement was carried out in line with the Constitution and the tender analysis report in Appendix 1. The matter is on the Procurement Schedule for 2022. Value engineering has resulted in a future procurement need for the re-painting works.

Human Resources

- 7.2 There are no Human Resources implications with this report.

Legal

- 7.3.1 In accordance with Rule 2.2.6 of the Contract Procedure Rules, this report seeks Cabinet approval to award a works contract to the recommended bidder being the most economically advantageous tender, as noted in the Tender report in the Part II Appendix 1. Approval is also sought to delegate authority to the Director for Customer and Commercial Services in consultation with Lead Specialist for Legal, Governance and Democracy (Monitoring Officer) to enter into the appropriate contract for the works to commence.
- 7.3.2 Arrangements regarding the ownership of the Westmorland Shopping Centre are complex. In 1988, SLDC held the freehold of the land on which stands the Westmorland Shopping Centre, Market Hall, Bus Station and the Car Park and granted a long lease of 150 years to Shearwater to develop and run the shopping centre (Head

Lease). Shearwater then leased back the Bus Station, Car Park and Market Hall to SLDC in two separate leases both for 150 years less one day (underleases).

- 7.3.3 In 1995, the freehold of the shopping centre **only** was sold by SLDC dividing the freehold ownership between the buyer (now Longlands Limited) and SLDC. The freehold sale was made subject to the Head Lease resulting in the landlord under the Head Lease becoming both the Buyer (for the Shopping Centre part) and SLDC for the remainder.
- 7.3.4 As a result of the sale in 1995 of part of the freehold, Longlands Limited is both the freeholder and Landlord of the Head Lease (in so far as it relates to the shopping centre only) and tenant of the whole of the Head Lease (Shopping Centre, Market Hall, Bus Station, Car Park). The Head Lease was not merged upon completion of the freehold transfer as the leasehold covenants and obligations are intended to run and the Head Lease property extends beyond that of the 1995 freehold transfer.
- 7.3.5 As Longlands Limited is landlord and tenant of the Head Lease relating to the shopping centre, the obligations between landlord and tenant are of little effect (a landlord will not seek to enforce obligations upon itself as tenant and vice versa).
- 7.3.6 Longlands is now the immediate landlord of the Bus Station, Car Park and Market Hall, sitting between SLDC as freeholder and SLDC as tenant under the underleases. Therefore currently SLDC must request approval from Longlands as landlord for alterations proposed, and subsequent lettings of part of the Bus Station, Car Park and Market Hall.
- 7.3.7 The Council operates the Multi Storey Car Park at the shopping centre under a lease with Longlands Limited. Structural alterations and additions to the car park or alterations and additions which affect the external appearance of the car park, are not permitted under the terms of the lease with Longlands Limited. However, if the works comprise of structural additions/alterations or additions/alterations which affect the external appearance and such works are required for reasons connected with the operation of the Car Park, (and further that such works do not reduce the standards of decoration, repair, cleanliness and appearance of the car park) such works can be carried out with the prior written consent of Longlands Limited. Such consent in this instance cannot be unreasonably withheld. Therefore the Council is required to obtain formal written consent from Longlands Limited for structural alterations or additions to the car park. Such consent will need to be formally obtained before the contract for works can be completed and works begin.
- 7.3.2 Legal Services will review the contracts and provide advice on the contract documentation for the constructions works to ensure that there are appropriate terms and conditions in place to safeguard the Council's interests.
- 7.3.3 The Council's Constitution and Rule 28.6 of the Contract Procedure Rules requires that the Council shall take sufficient security for the due performance of works contracts and that in the case of contracts for works a portion of the contract sum (usually 10%) shall be retained during the life of the contract, such retention to be released on issue of the certificate of practical completion of the contract. The appointed construction contractor in this case will be required to provide a performance bond in accordance with the Constitutional requirements.
- 7.3.4 The contractor will also be required to provide such guarantees and collateral warranties as are appropriate in the circumstances.

Health and Sustainability Impact Assessment

- 7.4 Have you completed a Health and Sustainability Impact Assessment? Yes

7.5 Summary of Health and Sustainability Impacts.

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		x		
	Air Quality		x		
	Biodiversity		x		
	Impacts of Climate Change		x		
	Reduced or zero requirement for energy, building space, materials or travel		x		
	Active Travel		x		
Economy and Culture	Inclusive and sustainable development		x		
	Jobs and levels of pay		x		
	Healthier high streets	x			
	Culture, creativity and heritage		x		
	Housing and Communities	Standard of housing		x	
Access to housing			x		
Crime			x		
Social connectedness			x		

Equality and Diversity

7.6 Have you completed an Equality Impact Analysis? No

7.7 If you have not completed an Impact Analysis, please explain your reasons: It is not felt necessary for this report as this is a construction project.

7.9 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"						
Age	P		0	x	N	
Disability	P		0	x	N	
Gender reassignment (transgender)	P		0	x	N	
Marriage & civil partnership	P		0	x	N	
Pregnancy & maternity	P		0	x	N	
Race/ethnicity	P		0	x	N	
Religion or belief	P		0	x	N	
Sex/gender	P		0	x	N	
Sexual orientation	P		0	x	N	

Armed forces families	P		0	x	N	
Rurality	P		0	x	N	
Socio-economic disadvantage	P		0	x	N	

Risk Management	Consequence	Controls required
Lack of investment	Will lead to Health and Safety concern and possible premature closure of the car park leading to negative economic impact.	Undertake structural repair works as recommended within the report.
Consent of PRAXIS not obtained.	Works cannot be undertaken.	Formal consents to be in place before contract is signed.

Contact Officers

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Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	17.02.22	28.02.22
Monitoring Officer	17.02.22	28.02.22
CMT	17.02.22	28.02.22

Circulated to	Date sent
Lead Specialist	N/A
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	28.02.22
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A