

11. LICHFIELD LANES REVITALISATION PROJECT: DELEGATION OF AUTHORITY TO GENERAL MANAGER CAPITAL PROGRAMME



General Manager responsible:	General Manager - Capital Programme, DDI 941-6401
Officer responsible:	Capital Programme Manager CaP – City Environment
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PURPOSE OF REPORT

1. The purpose of this report is to obtain the Council's agreement to delegate authority to the General Manager - Capital Programme to negotiate and agree the terms of the financial arrangement with Business Building Systems Limited ("BBS") necessary as the result of certain street works forming part of the Lichfield Lanes revitalisation project being necessarily constructed on private land owned by that company.

EXECUTIVE SUMMARY

2. On 7 September 2006 the Council approved Central City Lanes Plans, including the implementation of the first stage of the proposed street upgrade on Poplar and Ash Streets (known locally at Lichfield lanes). Consequently, the Capital Programme Group is presently, through a contractor, undertaking street works to improve the streetscape and create a piazza at the intersection of Poplar and Ash Streets in the heart of the Lichfield lanes area. Part of the piazza to be created by the Council's street works is situated on legal road and part on private property owned by BBS as indicated on the plan attached to this report.
3. To facilitate the project BBS has granted to the Council a registered legal easement over the Certificate of Title to its property granting the Council and the public legal rights of access over **part** of BBS's property to form the piazza. However, BBS has indicated that for legal reasons relating to its obligations under the Deed of Lease between it and the tenant of its adjacent building that it is unable to grant a similar easement over the whole of BBS's property required to form the piazza. Thus a balance area not subject to the easement in favour of the Council remains. This balance area is marked on the plan attached to this report ("the balance area").
4. The design of the piazza and the associated street works was undertaken on the basis that the whole of the area required to form the piazza, including the balance area, would be available for those works. It was originally envisaged that BBS would agree to the whole area being made subject to the easement in favour of the Council. However as negotiations progressed it became clear that BBS could not agree to that.
5. It is an important principle that the Council should not spend public money improving private land, unless public access to that land can be secured such as by way of easement. Capital Programme Group staff are of the view that notwithstanding the inability to gain easement rights over the entire area of the BBS property affected that the formation of the piazza and the associate works should proceed as originally contemplated. The reasons for this relate to the need to retain the integrity of the original concept plan approved by the Council and the community. There are also issues of convenience and consistency in that it would obviously be more convenient for the Council's contractor to complete the works over the balance land at the same time as completing the remainder of the works. In addition such would lead to a consistency of works and finish on the ground.
6. As a result it was agreed to accept BBS's proposal to grant an easement over a lesser area and to negotiate with BBS a payment arrangement under which BBS would agree to reimburse the Council for the costs of the works to be completed to the balance area. Effectively under this arrangement there will in fact be no Council improvement of private land as the cost of the works to the BBS land will be paid for by BBS. The estimated cost of these works is \$25,000 plus GST.

7. Matters presently stand at the point where Capital Programme Group staff need to agree on the financial arrangements with BBS as to the payment of this sum to the Council. Preliminary discussions would indicate that BBS are likely to agree to an arrangement under which they will pay that sum to the Council by equal instalments over a period of three years. To enable the General Manager – Capital Programme to conclude those discussions and agree a payment arrangement with BBS it is necessary to obtain a specific delegation to that effect from the Council.

FINANCIAL IMPLICATIONS

8. Essentially, the proposed financial arrangement with BBS will be neutral in a budgetary sense, but there will be a financial implication in that recovery of the monies proposed to be spent by the Council in street works on BBS's private property will be delayed over, it is expected, a period of three years.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

9. Yes.

LEGAL CONSIDERATIONS

10. The proposal to negotiate and enter into a financial arrangement with BBS concerning certain street works proposed to be constructed on that company's property as part of the Lichfield Lanes revitalisation project does not fall within an existing staff delegation. To enable the terms of that arrangement to be negotiated and agreed by staff it is necessary for the Council to grant staff delegated authority to staff to that effect.

Have you considered the legal implications of the issue under consideration?

11. Yes. The Legal Services Unit has advised of the need for an express delegated authority to staff and has assisted with the preparation of this report.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Yes.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

13. Yes.

ALIGNMENT WITH STRATEGIES

14. Yes.

Do the recommendations align with the Council's strategies?

15. Yes.

CONSULTATION FULFILMENT

16. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council grant to the General Manager – Capital Programme delegated authority to negotiate and agree on terms and conditions acceptable to him the terms of any financial arrangement with Business Building Systems Limited necessary as the result of certain street works forming part of the Lichfield Lanes revitalisation project being necessarily constructed on private land owned by that company.