



Report to Cabinet

Subject: Arnot Hill Park Pavilion – Payment to Cambs Construction Ltd

Date: 2nd March 2006

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1. Purpose of the Report

To request Cabinet approval of a settlement with Cambs Construction Ltd, contractors for the build of Arnot Hill Park Pavilion.

2. Background

A successful bid was made to the Heritage Lottery Fund to restore Arnot Hill Park.

Part of the restoration programme was to provide improved toilet facilities and a refreshment kiosk housed in a pavilion located adjacent to the lake.

Parklands Consortium Ltd, consultants for the scheme, based the pavilion design on a similar provision in Buxton that has been successful in obtaining Heritage Lottery funding.

Tenders were invited and the lowest received was £340,000, this was above the funding allocated for the project and as a result the pavilion size was reduced and careful consideration given to how the interior was finished.

A new specification and set of tenders were prepared on which builders submitted quotations; the lowest received was for £261,481.92 from Cambs Construction Ltd.

This bid was above the capital allocation for the scheme but rather than reduce the level of finish to the pavilion additional funding was made available.

Work on the pavilion commenced in September 2003 and had a completion target of 14 weeks, due to a number of issues surrounding the construction techniques, including piling and ordering of metal supports, the project was delayed and was not completed until 2nd June 2004.

During the construction period a number of additions were agreed. These additional works were approved prior to the work being undertaken and in the knowledge that funding was available, however the funding was not formally added to the contract as a decision item until December 2005.

This delay in reporting the extras is a breach of the Council's Financial Regulations as the works undertaken were above the 5% limit for variations to contracts. Training on Standing Orders / Financial Regulations is being arranged to ensure this error will not be repeated.

Additional works undertaken were: -

- Completion of the surrounds to the pavilion in stone rather than tarmac, allowing an extended performance area to be provided, January 2004.
- A retaining wall built to the left of the performance area to support a raised bed, November 2003.
- Removal of a tree that was found to be unsafe, October 2003.

Funding for the additional work was allocated from within the park restoration budget and £22,226.00 has been added to the contract sum, after seeking Heritage Lottery Fund and Portfolio Holder approval. This was the most cost effective way of dealing with the works, avoiding two contractors working in the same area, ensuring continuity in the quality of work and further delay to the contract.

Throughout the contract period Cambs Construction Ltd submitted valuations that were rejected by our consultants, Parkland Consortium Ltd, pending justification or revision of the claims. This included unauthorised day work claims and transportation of soil off site that was deposited on the lake edge.

Cambs did not remove or provide proof of contentious items and continued to claim them in their final account submitted in July 2005.

Despite telephone calls and faxes Cambs failed to provide claims against the contract sum. In March 2005 they finally met with Parklands to discuss and resolve the many contentious issues associated with the contract. Cambs apologised at this meeting for delays in responding to our queries stating that they do not have a Quantity Surveyor in their employ and duties running other sites resulted in a lack of time to provide answers.

Following this meeting, and after many requests from Parklands, a final account for £335,000 was received in July 2005.

Parklands responded in August 2005 sending a detailed analysis omitting unproven claims and proposed a final account figure of £293,000.

Cambs did not respond to this letter and therefore Parklands wrote again on the 3rd October 2005 stating that as there had been no response it was assumed that their measurement and final account figure was correct.

Cambs rejected this claim and a meeting was held in October 2005 where they produced supporting evidence of their claim. Following examination of this claim Cambs reduced it to £315,000 and this was again rejected.

A further meeting was held in November 2005 at which Cambs made a settlement offer of £310,000. Parklands, after analysing their claim believed that the claim should be around £300,000 and the maximum figure, taking everything into account, including the remaining unproven items, should not exceed £305,000.

As many hours of negotiation had been spent by Parklands staff without reaching agreement with Cambs the issue was referred to the Council.

Two meetings with Legal and Finance officers took place, at the second meeting Parklands reported that Cambs had offered to split the difference between their lowest and Parklands highest valuation, and suggested £307,500.

In view of the cost of taking the dispute to arbitration officers accepted Cambs offer as a practical, although unsatisfactory, solution to resolve the impasse. The cost of taking a case through the courts would have to be taken into account in the final cost of the contract and Cambs would most likely revert to their original £335,000 claim.

Funds in the Parks Heritage restoration programme are being held to meet the claim from Cambs, Heritage Lottery have agreed that their grant allocation can be used for this purpose.

A letter was drafted to Cambs on the 6th December 2005 stating that the settlement figure of £307,500 was acceptable but our counterclaim for loss of water as a result of a poor connection by Cambs, and the cost of providing a new pump for the fountain remains outside of this settlement.

Cambs have subsequently challenged our counterclaim, querying the amount of water loss and rejecting the claim on the pump, stating that it should be set against a previous contract with them for works to the park lake. Cambs offered a settlement figure of £305,000, which allows £2,500 for the loss of water.

The water loss was queried and as a result the claim against Cambs was reduced to £4,418.32 from the original of £8,929.29, reflecting a credit received from Severn Trent for the used water element of their charge.

Cambs were responsible, through sub-contractors, for the installation of the fountain pump under a separate lake restoration contract and the moving of its electrics as part of the pavilion build contract. Cambs sub-contractors for these works disputed who was at fault for the fountain not working. As a result it was agreed to remove the pump and have it checked by the supplier. The supplier, Grundfoss, reported that the pump was fully serviceable but recommended a rebuild costing £800.

As there was no fault with the pump Cambs were instructed to replace the motor, this they did not undertake and therefore Parklands issued an architects instruction to Cambs for it to be undertaken within 7 days, on the 30th September 2004.

This instruction was ignored and therefore a quote for an alternative supplier to provide and install a new pump was obtained. The cost of the pump, emptying the water chamber and clearing the inlet pipe was £4,582.49. This amount has been claimed from Cambs.

Additional background information was provided to Cambs on the 20th January 2006 and their response is awaited.

The counterclaim placed with Cambs is as follows: -

- £4,418.32 for loss of water due to a leak from defective piping.
- £4,582.49 for the removal of the pump from the fountain and the cost of providing an alternative, pumping out water from the chamber and clearing the inlet pipe.

3. Proposal

To approve settlement with Cambs Construction Ltd at £307,500.

4. Resource Implications

The cost of Cambs final claim of £307,500 can be met from within the budget provided for the park restoration.

5. Recommendation

To approve settlement of Cambs Construction Ltd claim of £307,500.

6. Wards Affected

Kingswell.