

Report to Council

Subject: Waiver of Contract Standing Orders – Resurfacing work to Bestwood Lodge Drive

Date: 4 March 2021

Author: Director of Corporate Resources

Purpose

To request a waiver from the Council's contract standing orders to enable the Council to enter into a new contract with Via East Midlands Limited ("Via EM") to carry out resurfacing work to Bestwood Lodge Drive, an un-adopted road at Bestwood Country Park.

Recommendation

THAT:

Council agrees to waive contract standing orders to enable the Council to directly award a contract for the resurfacing of Bestwood Lodge Drive, an un-adopted road at Bestwood Country Park, to Via East Midlands Limited.

1 Background

- 1.1 Bestwood Lodge Drive is an un-adopted road that runs over land owned by Gedling Borough Council. It provides access to Bestwood Lodge Hotel, Nottinghamshire Fire Headquarters and various private residences, as well as direct access into Bestwood Country Park itself which is in part owned by the Council and part by Nottinghamshire County Council ("NCC"). As the road is un-adopted, the Council, as land owner, is responsible for the cost of its repair and maintenance.

1.2 The road is now in a state of disrepair. The Council has received numerous complaints from occupiers of the adjacent properties and users of the park with regards to the condition of the driveway surface which is heavily potholed and sunken in places. The Council is therefore intending to undertake the following works to the road as identified on the plan at Appendix 1:

- Cold plane each side of road and ends to provide key;
- Cold plane and prepare base areas of loose surfacing;
- Remove existing bitmac speed humps and associated loose kerbs;
- Tack coat and resurface the road way; and
- Provide and install preformed speed humps

The road is not wide enough to allow vehicles to pass the planing and surfacing equipment so it is proposed that the works are carried out at night.

1.3 The Council has liaised with the Fire Authority and NCC, public sector partners who have use of the road, regarding these proposed works. NCC, in recognition of the road's use as an access to Bestwood Country Park, have offered to make a financial contribution of 30% of the costs of the necessary works or £40,000 (whichever is smaller) towards the works and the Fire Authority, in recognition of their use of the road to access their headquarters, have offered to make a financial contribution of £20,000 towards the costs of the works. The offer by NCC has been agreed and confirmed by Chief Executive Anthony May.

1.4 Following soft market testing and comparison of recent tender prices received for similar works, council officers estimate that the costs of resurfacing the road to be in the region of £120,000. The Council's contract standing orders for procurement of new contracts require that either tenders are invited or frameworks are used where the estimated value of a proposed contract exceeds £50,000. However, this requirement may be waived by direction of the Council where it is satisfied that there are special circumstances. The special circumstances which exist in relation to this matter are outlined below. Such a waiver cannot be given where the contract value exceeds the statutory thresholds unless an exemption is available under the relevant procurement regulations. The projected costs of the works falls under the relevant procurement threshold but is above £50,000. Therefore the contract must be procured via a competitive tender process or a framework unless a waiver is granted by Council.

- 1.5 The purpose of the Council's contract standing orders is to:
- achieve value for money
 - be consistent with the highest standards of integrity
 - ensure fairness and transparency in the allocation of contracts
 - ensure compliance with legal requirements
 - ensure that non-commercial considerations do not influence any contracting decision
 - prevent fraud and corruption and
 - protect the interests of the Council and its employees
- 1.6 The estimated value of the contract is £120,000. Tenders should therefore be invited in accordance with contract standing orders 8, 9, 10, 11 or 12.
- 1.7 Via EM have however offered to carry out the works 'at estimated cost price' for £66,275. (Please see written quotation at Appendix 2). This would be a considerable financial saving for the Council. Such saving will not be achieved by offering the contract opportunity on the open market or through use of a framework.

In order to take advantage of the offer to carry out the works at this discounted rate and give us and Via sufficient time to carry out core sampling and consult with the users of the road and neighbouring properties about the night time closure of the road, the works would be programmed to take place in April/May 2021.

2 Proposal

- 2.1 It is proposed that Council approves the waiver of contract standing orders to enable the Council to award this contract to Via EM.
- 2.2 Compared to the estimated costs provided following soft market testing the price quoted by Via EM is very competitive in the current market, and in this case it is believed that it achieves value for money for the Council. If the Council were to advertise the contract opportunity on the open market this would add 8-10 weeks to the timetable and commencement of the works would be delayed. The opportunity for a quicker start time for the surfacing works should give rise to higher levels of resident satisfaction and a reduced risk of claims due to the poor state of the road to the Council.
- 2.3 Taking account the above, the Council would like to appoint Via EM to carry out this resurfacing work as soon as possible to reduce the risk element presented by the poor driveway surface conditions in order to mitigate against potential claims arising from damage to vehicles caused

by the deteriorating road surface. This would provide a suitable access road to properties and for users of the Country Park, and offer improved value for the taxpayer.

3 Alternative Options

- 3.1 The Council could procure a contractor to undertake the resurfacing works via an open competitive process through the Council's e-tendering portal or via a framework which would likely require a competitive process to secure the most economically advantageous price. A competitive process, including publication of the contract opportunity, evaluation of tenders and contract award would take at least 8-10 weeks from publication. We would then need around two weeks from the letting of the contract to consult with the road users over the night closure. The Works would therefore unlikely to start until June at the earliest. During which time the road could deteriorate further and further complaints are likely to be made to the Council.
- 3.2 Do nothing. This is not an option as the Council is legally responsible as owner of the un-adopted road for its condition and repair. The Council is likely to receive further complaints about the condition of the road and could be liable to compensation should damage be caused to vehicles because of the state of repair of the road.

4 Financial Implications

- 4.1 The actual cost of the project will be determined once a detailed specification has been prepared.
- 4.2 The total budget for the works will be capped at a maximum of £120,000.
- 4.3 Based on the works costing the quoted £66,275. Nottinghamshire County Council have agreed to pay up to 30% of this cost, £19,882., and the Fire Authority have offered £20,000., which will result in a cost to Gedling Borough Council of £26,393.

Via EM quoted price includes the resurfacing of the road as per attached design drawing, cost of core sampling and testing required prior to the commencement of works, and installation of new road markings.

Please note the quote assumes that all excavated materials are inert. If tar bound material is present in the existing road surface, additional charges will apply.

- 4.4 There is currently an approved capital budget of £100,000 specifically for roadway resurfacing projects which can be used to fund the Council's element of the cost.

5 Legal Implications

- 5.1 As owner of the un-adopted road, the Council is legally responsible for its repair and condition.
- 5.2 Any contract for works must be procured in accordance with statutory procurement rules and the Council's contract standing orders and financial regulations. For contracts valued between £50,000 and the statutory threshold, tenders should be invited by an open competitive process or the contract can be awarded through a framework unless a waiver is obtained from Council where it is satisfied that there are special circumstances to justify the exemption from contract standing orders.

6 Equalities Implications

- 6.1 This section of Bestwood Lodge Drive is a shared surface providing both vehicle and pedestrian access to Bestwood Country Park from our car park and the wider Bestwood parish area. The proposed works will improve the quality of the road surface improving access for all users.

The proposed alterations to the speed reduction humps will improve access for cyclists and wheelchair users. When completed the proposed works will not have any adverse equalities implications.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 The projects design and construction will ensure that the parkland either side the construction work is not affected and is protected as an ecological community. Tree roots will be identified and protected as appropriate. Carbon offsetting will be achieved by planting additional tree stocks in the County Park by way of mitigation.
- 7.2 Abatement of CO2 emissions will be achieved by using Green Power where available, and specific materials chosen, such as recycled asphalt where appropriate. All road 'planings' will be recycled.
- 7.3 As the road is already in existence an air quality assessment calculating the changes in concentrations in nitrogen dioxide as a result of changes to traffic at sensitive human receptor locations such as homes, and the Fire headquarters and at sensitive ecological sites will be minimal. The impacts of dust from the construction phase will also be assessed, and water sprays used to damp down any arising dust where necessary. This is not an air quality area.

8 Appendices

Appendix 1 – Location Plan

9 Background Papers

9.1 None

Statutory Officer approval

Date:	19 February
Chief Financial Officer	

Date:	19 February
Monitoring Officer	