

REPORT TO: Cabinet

DATE: 27th January 2011

SUBJECT: ROK Building Ltd (in Administration)

WARDS AFFECTED: Linacre, Litherland, Derby, Dukes, Kew, Norwood

REPORT OF: Peter Moore
Environmental and Technical Services Director

CONTACT OFFICER: David Kay
Client Manager
Tel: 0151 934 4527

EXEMPT/ CONFIDENTIAL: No

PURPOSE/SUMMARY:

The supplementary report is to update members on the position with regards to ROK Building Ltd (In administration).

REASON WHY DECISION REQUIRED:

To enable the Environmental and Technical Services Director to act in order for the works to be recommenced and completed as soon as possible and in a manner most advantageous to the Authority.

RECOMMENDATION(S):

Cabinet is recommended to:

- (i) Note the update on the situation with regards to ROK Building Ltd (In administration) and the potential implications for the Authority.
- (ii) Authorise the Environmental and Technical Services Director and the Acting Head of Corporate Legal Services to proceed as proposed and to provide a report on progress, with recommendations, to the next Cabinet Meeting.

KEY DECISION: No

FORWARD PLAN: Not Appropriate

IMPLEMENTATION DATE: Immediately following expiry of call in.

ALTERNATIVE OPTIONS:

All reasonable alternative options will be considered but only those options affording the Council the best opportunity to complete the outstanding works as quickly as possible and at no additional cost will be adopted.

IMPLICATIONS:

Budget/Policy Framework: There are currently capital provisions totalling £3,032,000 £1,895,870 and £780,260 in connection with the Southport Market, Lander Road Primary and Kew Woods Primary projects respectively.

Financial

It is not anticipated that the Authority will incur any additional costs over and above the current funding provision.

<u>CAPITAL EXPENDITURE</u>	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £	2013/ 2014 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	N/A			
How will the service be funded post expiry?	N/A			

Legal: See below

Risk Assessment: Not appropriate

Asset Management: Not Applicable

CONSULTATION UNDERTAKEN/VIEWS

The Children’s Schools and families and the Leisure Services and Tourism Department have been consulted and any comments have been taken into account in preparing this report.

FD comment: The Interim Head of Corporate Finance & Information Services has been consulted and has no comments on this report. (FD 592)

LD Comment: The Head of Corporate Legal Services has been consulted and his comments have been incorporated into this report. (LD 00011/10)

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities		√	
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening local Democracy		√	
8	Children and Young People		√	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Children Schools and Families and Leisure Services and Tourism Capital Programmes

1.0 Background

1.1 ROK Building Ltd, who had been engaged to carry out various contracts on behalf of the Authority, entered administration on 8th November 2010.

1.2 Members will recall that a report advising of this was presented to Cabinet at its meeting on 16th December 2010

2.0 Current Situation

2.1 ROK Building Ltd, working in conjunction with the appointed administrators, have indicated that they are willing and able to complete the outstanding defects on the St Peters House project.

2.2 This will benefit the Authority in that sub-contract warranties will not be affected and the works will be completed quickly. The existing contract remains in place and ROK Building Ltd (In administration) will simply complete the contract, as they would have originally.

2.3 Unfortunately ROK Building Ltd have confirmed that they remain unable to complete the works on any of the other three projects at Southport Market, Lander Road and Kew Woods schools.

2.4 The Authority's technical services consultant, Capita Symonds, have now identified the exact position on each project, establishing what works have been completed satisfactorily by ROK Building Ltd and what works therefore remain.

2.5 On the basis of the identified outstanding works Capita Symonds have then sought to identify the cost for completion of the outstanding works with most competitive of the contractors who unsuccessfully submitted tenders in the original complete tender submission.

2.6 The proposed contractors have now identified their costs and Capita Symonds are currently subjecting these to detailed scrutiny in order to establish that they are reasonable and, as a consequence, the Authority can expect the increased costs to be met from monies held against ROK Building Ltd and / or as a claim against the performance bond.

2.7 Following some initial difficulties a line of communication has now been established with the administrator. Details of the costs for completion for all three projects have been shared with both him and the respective bondspersons.

2.8 No official response has yet been received from either party but Capita Symonds have been led to understand that the administrator, at least, intends to subject the proposals to detail consideration.

3.0 Options to Proceed

- 3.1 It was hoped that the administrator and bondspersons support could be secured, prior to the Authority entering into a contract for completion of the works thereby removing the risk that the Authority's actions would be subsequently challenged.
- 3.2 This is still possible but it may become necessary to consider proceeding with the completion contracts without such reassurances. In addition to the obvious desire to complete the works as soon as possible there are potentially time constraints, particularly in relation to meeting the Lander Road expenditure target that may mean a prompt recommencement is necessary.
- 3.3 Clearly, if proceeding without the up front support of the administrator and bondspersons, the Authority would have to be confident that the adopted proposals were reasonable and did not therefore present a risk that the Authority's costs would not be met.
- 3.4 Capita Symonds have therefore been asked, upon completion of the exercise, outlined in 2.6 above, to advise the Authority on what risks, if any, there will be in proceeding with the current proposed replacement contractors.
- 3.5 It is the intention to present a report at the next Cabinet Meeting which will outline progress in obtaining support for the current proposals from the administrator and bondspersons and, in the event of these not being forthcoming, make recommendations on whether to proceed without such assurances.
- 3.6 In the event that Capita Symonds believe that the current identified costs are unreasonable, and therefore unlikely to be agreed by the administrator and bondspersons, it is possible that Members will be recommended to support an option to invite further tenders for the outstanding works.

4.0 Financial Implications

- 4.1 The Environmental and Technical Services Director remains confident that, in respect of the contracts at Southport Market and Kew Woods, any additional costs incurred in completing the outstanding works can be met from monies retained by the Council under the contract or through claims against the performance bonds.
- 4.2 Subject to ongoing review it appears that the costs to complete the Lander Road contract may exceed the total of the retained monies and maximum bond value by approximately £70,000. Every effort will however be made to reduce the increased costs and contain the total scheme cost within the funding available.

4.0 Recommendation

Cabinet is recommended to:

- (i) Note the update on the situation with regards to ROK Building Ltd entering administration and the potential implications for the Authority.
- (ii) Authorise the Environmental and Technical Services Director and the Acting Head of Corporate Legal Services to proceed as proposed and to provide a report on progress, with recommendations, to the next Cabinet Meeting.

Peter Moore
Environmental and Technical Services Director