

REPORT TO: Cabinet

DATE: 17th February 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 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) Consider the recommendations submitted prior to the 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 with priority being given to those affording the Council the best opportunity to complete the outstanding works as quickly as possible and at no additional cost.

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

The financial implications can only finally be established upon conclusion of Capita Symonds' review of the cost submissions and following discussions with the administrator / bondspersons.

It is hoped that any additional costs arising will be met from monies held against ROK Building Ltd or by a claim against the bond although, based on the current completion costs, there is an indication that the total cost may increase by up to £70,000. Every effort will however be made to reduce the increased costs and contain the total scheme cost within the funding available.

In the event that it is not possible to contain the overall scheme costs within the existing funding available then details of additional funding requirements, and proposals to meet such requirements, will be reported to Members for approval before any commitment is made.

<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: Details of the risks associated with the recommendations will be provided on the day of the meeting.

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 638)

LD Comment: The Head of Corporate Legal Services has been consulted and his comments have been incorporated into this report. (LD 00043/11)

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 reports advising of this, and providing updates of progress, have been presented to Cabinet at its meetings on 16th December 2010 and 27th January 2011.

2.0 Current Situation

- 2.1 ROK Building Ltd, working in conjunction with the appointed administrators, have undertaken to complete the outstanding defects on the St Peters House project.
- 2.2 As previously advised ROK Building Ltd will not however be able to complete the works on the other three projects at Southport Market, Lander Road and Kew Woods schools.
- 2.3 The Authority's technical services consultant, Capita Symonds, have identified the exact position on each project and identified a cost for completion with the proposed replacement contractor.
- 2.4 Capita Symonds are currently reviewing these costs in detail and seeking to establish the administrators and bondspersons views on the proposals for completion of the works with the most competitive of the original unsuccessful tenderers.
- 2.5 The situation is constantly evolving and an update will be provided to Members on the day of the meeting.

3.0 Options to Proceed

- 3.1 It is hoped that the support of the administrator and bondspersons can 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 In the event however that the support of the administrator and bondspersons can not be secured within a reasonable timescale then it may be necessary to consider proceeding without these reassurances.
- 3.3 Clearly, if proceeding without the prior 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 significant risk that the Authority's costs would not be met.

- 3.4 Capita Symonds will therefore, upon completion of their detailed consideration, provide advice on what risks, if any, there will be in proceeding as currently proposed.
- 3.5 In the event that Capita Symonds' advice is such that there will be some risk in proceeding as proposed then it may be necessary to consider whether this risk is acceptable in order to allow an immediate recommencement of the works.
- 3.6 In the event however that Capita Symonds believe that the current identified costs are unreasonable, and / or present an unacceptable level of risk, then it may be necessary to consider an alternative option and to invite further tenders for the outstanding works.
- 3.7 A detailed recommendation will be made to Members at the meeting in respect of each outstanding project.

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 up to £70,000. Every effort will be made to reduce the increased costs and contain the total scheme cost within the funding available
- 4.3 In the event that it is not possible to contain the overall scheme costs within the existing funding available then details of additional funding requirements, and proposals to meet such requirements, will be reported to Members for approval before any commitment is made.

5.0 Recommendation

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) Consider the recommendations made on the day of the meeting.