

## COUNCIL

17 JUNE 2010

### SPECIAL URGENCY DECISIONS

Portfolio Holder: Councillor Rodney Chambers, Leader

Report from: Neil Davies, Chief Executive

Author: Deborah Upton, Monitoring Officer

#### Summary

This report details a decision taken by the Cabinet under the special urgency provisions contained within the Constitution.

#### 1. Budget and Policy Framework

1.1 The Constitution requires that these decisions are reported to Council.

#### 2. Background

2.1 The Constitution allows for the call-in provisions to be waived where a decision is considered urgent, in that any delay caused by the call-in would seriously prejudice the Council's or public's interest. This also requires the agreement of the Chairman of the relevant Overview and Scrutiny Committee and for the matter to be reported to the next available meeting of the Council.

2.2 A summary of the recent use of these provisions is set out in the following section.

#### 3 Gateway 3 Contract Award: A228 Stoke Crossing

3.1 On 8 June 2010 the Cabinet considered a report seeking approval to the award of a contract for the construction of a bridge to replace the level crossing near Stoke on the A228. This was an essential part of a wider scheme of improvements to the A228, designed to improve safety and increase capacity.

3.2 The Gateway 3 Contract Award report set out details of the tender process undertaken and provided an analysis of the tenders received. A copy of the report is available via the Council's website ([www.medway.gov.uk](http://www.medway.gov.uk)) or by contacting the Cabinet Office on (01634) 332008/332509.

- 3.3 The Cabinet agreed to:
- (a) waive contract rules to permit the Cabinet to make the following decision without the Procurement Board first having considered the report.
  - (b) accept the most economically advantageous tender, submitted by Birse Construction as set out in the exempt appendix to the report.
  - (c) agree that these decisions are considered urgent and therefore should not be subject to call-in.
- 3.4 The Cabinet considered that the decisions set out above (paragraph 3.3) were urgent and should therefore not be subject to call-in. It was noted that delays in obtaining the approvals would delay the start and that certain works, such as moving water voles to safe areas, were seasonal and could not be delayed. Members also noted that work needed to be planned and approved by the Environment Agency and delays to the start would put at risk the likelihood of committing all the Homes and Communities Agency (HCA) funding in the current financial year in accordance with the funding agreement. In addition, it was essential that methods of working near services and over the railway were clarified as soon as possible, so that there could be certainty prior to the steel being ordered; the costs of which were expected to rise.
- 3.5 It was noted that the Chairman of the Regeneration, Community and Culture Overview and Scrutiny Committee had agreed to waive call-in (in accordance with rule 16.11 of Chapter 4, Part 5 of the Constitution). The Regeneration, Community and Culture Overview and Scrutiny was notified, via email and letter, when agreement to use these provisions was given.

#### **4. Financial, legal and risk implications**

- 4.1 The requirement to report decisions taken under the various urgency provisions is set out within the Constitution. Details of the financial, legal and risk implications associated with the award of the contract are set out in full within the Cabinet report.

#### **5. Recommendation**

- 5.1 That the report be noted.

#### **Lead officer contact**

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#### **Background papers**

“Gateway 3 Contract Award – A228 Stoke Crossing” Report and accompanying Exempt Appendix to Cabinet 8 June 2010.

Cabinet reports and decisions can be accessed via the Council's website at: - <http://www.medway.gov.uk/cabinetdecisions.htm>