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**Subject:** APPROVAL OF USE OF KEARSNEY ABBEY CONTINGENCY FUND

**Meeting and Date:** Cabinet – 12 April 2021

**Report of:** Roger Walton, Strategic Director (Operations and Commercial)

**Portfolio Holder:** Councillor Oliver Richardson, Portfolio Holder for Environment and Corporate Property

**Decision Type:** Non-Key

**Classification:** Unrestricted

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**Purpose of the report:** To seek approval to finance the overspend on the Kearsney Abbey and Russell Gardens Heritage Lottery Project from contingencies allocated in the Medium-Term Financial Plan.

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**Recommendation:** To finance the overspend on the Kearsney Abbey and Russell Gardens project from contingencies identified in the Medium-Term Financial Plan, namely £250,000 from a specific contingency established for this project, and £100,000 from general contingencies.

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## 1. Summary

- 1.1 Having secured funding from the Heritage Lottery Fund (HLF) for our Kearsney Parks project, we encountered various additional costs and delays to programme that have resulted in the essential use of the contingency sum set against the project.
- 1.2 The approval is sought to cover the final project costs to facilitate the project completion, and the report below outlines the reasons for the extra costs due to contractor delays, and additional works to listed building fabric and landscape due to ground conditions and ecology and contractor workmanship issues.

## 2. Introduction and Background

- 2.1 Following extensive community engagement and a successful round 2 application to the Parks for People programme in early 2016, HLF and BIG Lottery awarded Dover District Council a grant of £3.1m to deliver the Kearsney Parks project. The project includes capital work to restore and improve Kearsney Abbey and Russell Gardens, as well as additional staff, volunteering and training opportunities, activities and events. DDC have contributed match funding to the project.
- 2.2 The works had been rescheduled to late 2018 due to ecological surveys licenses and permissions that had to be sought. These were essential to insure DDC did not face prosecution for destroying protected species habitat. (These had not been reviewed in full at the bid or application stages by the initial project team). The financial penalty could have been extensive and/or a prison sentence. The nature of the works to listed building and landscape features has meant that additional stages and approvals have been needed for planning and conservation due to issues on site. Other delays have been mentioned below.
- 2.3 Having followed a competitive tender process, the contracts were awarded to Coombs Canterbury Ltd (Building) and Idverde (landscape). Works for both contracts encountered issues on site.

- 2.4 The majority of the building costs incurred were as a result of the damage caused by roof defects in the past to the main listed structure. This had not been fully surveyed or assessed due to the building being occupied (leased out) during the project bid stage and immediately prior to works starting on site.
- 2.5 This resulted in various roof and floor joist having to be replaced due to rot and a full structural review of the over lantern due to the fabric of the roof structure being much less robust than assumed (once the roof was stripped back).
- 2.6 This in turned caused more costs due to increased scaffold hire due to the heigh of the building and subsequent works to replace additional flooring. Further additional works were required internally at high level once panels were repaired as the brick work behind was in a "poor stated of repair" and had to be braced and fixed as agreed with Conservation Officer as this is a listed building. Additional refurbishment of listed panels internally and over door lintels and external render were required also due to water damage at mid height level.
- 2.7 The delay to the roof/lantern and external scaffold hire impacted on the availability of the main works site to the Landscape contractor. Additional time had originally been factored into both programmes, but due to the extensive nature of the repairs the time was eroded. Which then impacted on their programme and deliveries.
- 2.8 The weather also caused delays to the landscape contract, due to the ground being saturated and machinery not being able to be used. The site was also affected by ecology, which was not know about until works progressed and impacted on availability or areas. (Additional fees for consultants were required for mitigation so works could continue to these areas)
- 2.9 We also then had the impact of COVID 19 and the closure of the internal building works by the main contractor between end March 2020 until May 2020. This impacted on the final fit out stage for DDC and the subsequent opening of the café fell under government restrictions for COVID 19.
- 2.10 Delays and additional fees have also been incurred as the main contractor for the Building project caused delays to practical completion by not providing information in a timely fashion. Practical completion on both projects has been achieved. The final accounts for the building project have been delayed as Coombs went into administration. This has also impacted on the defects and warranties for the site and DDC are using the retention held to rectify these issues, as per guidance from External Legal consultants and Architects/Contract Administrators. This has incurred additional legal fees to seek advice.
- 2.11 The nature of the site and construction has meant that DDC Project and Property Services Team have been heavily involved in supervision on site, where this is not normally the case. On this site it has proven essential due to the use and set up of consultants (prior to any of the current team being appointed) being from London, Norfolk and beyond. Varying contract stage details, being set up on time spent basis, and fee bids that were not for the full resourcing required to completion.
- 2.12 Due to the additional duration of the works, additional fees and visit have been required. This has incurred additional travel, disbursements and fee claims from consultants. This has impacted financially on the project. Delays due to COVID 19 restrictions on travel caused delays in sign off and extra disbursement due to public transport not being used, and the necessity for individual travel (no car sharing)

### 3. **Identification of Options**

3.1 The options are:

- (a) Not approve – results in non-payment of contractor's final accounts
- (b) Approve Contingency use and pay contractors final accounts

### 4. **Evaluation of Options**

4.1 Option A - Non-payment of final accounts would damage DDC reputation. DDC could face legal action to gain payment of outstanding monies and those to cover claimant costs.

4.2 If DDC do not agree draw down of contingency we will be unable to settle final accounts for elements of the Kearsney Parks project. NHLF are likely to question our long term commitment to the conservation of Kearsney Parks' heritage, as well as heritage in the district more generally, jeopardising DDC ability to secure funding for other projects.

4.3 Option B - use of contingency will cover the "as at" known costs to DDC.

### 5. **Resource Implications**

5.1 Contingency for Kearsney Abbey and Russell Gardens was included in the current Medium-Term Financial Plan. Contingency for Kearsney Abbey and Russell Gardens was included in the current Medium-Term Financial Plan £250k and £100k general/generic contingency.

5.2 Parks Project team, DDC's Finance and Legal team will be notified of final accounts, retention amounts and details of costs incurred due to extended contract period, defects and workmanship that resulted in additional costs to the project.

### 6 **Climate Change and Environmental Implications**

6.1 Due to the sensitivity of both the site and building environmental implications have been considered throughout the project and have partially impacted on the delivery within timescales and original budgets.

### 7 **Corporate Implications**

7.1 Comment from the Director of Finance (linked to the MTFP): Members are reminded that the Council's revenue and capital resources are under pressure and so they will wish to assure themselves that all proposals progress the Council's priorities, are the best option available and will deliver value for money. (DL)

7.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

7.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

7.4 Other Officers (as appropriate):

### 8 **Appendices**

None.

### 9 **Background Papers**

None.

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