

# SURRENDER OF LEASE – LAND AT STOKESLEY, NORTH YORKSHIRE

## 1. INTRODUCTION

The purpose of this paper to request from Hambleton District Council payments of the costs associated with the surrender of the 1999 lease between Stokesley Town Council (as lessor) and Hambleton District Council (as lessee) for land at Stokesley.

## 2. BACKGROUND

The initial lease was dated 28 March 1991 between Stokesley Parish Council (later renamed Stokesley Town Council) and Hambleton District Council for a period of 99 years. The area covered was extended in a new lease dated 3 March 1999. However, the expiry date of the lease remained unchanged at 27 January 2090.

One of the lessee's obligations under the lease was to introduce an Off Street Parking Places Order (OSPPO) within 6 months of the signing of the 3 March 1999 lease. The latest iteration of this OSPPO is the currently extant Hambleton District Council (Stokesley) (Off Street Parking Places) Consolidation Order 2013.

Following discussions over the years, in 2018 Hambleton District Council (HDC) and Stokesley Town Council (HDC) agreed in principle the surrender of the lease. A contingent element of the surrender of the lease was that HDC would provide a grant to STC to fully cover the refurbishment works and other costs at the time of the surrender of the lease. At its meeting on 4 September 2018 the HDC Cabinet provided delegated authority to the Chief Executive to negotiate a Deed of Surrender of the lease and on its completion to provide STC the sum of £93,500 plus a contingency of a further sum of £17,444. These values were based on HDC's own assessment of the then costs of only the required remedial work.

## 3. COBBLES CONDITION

The 1999 lease provided that HDC was required to 'maintain the land in good order' and to maintain 'all parts of the land in no worse a condition than they were at the time of the lease'. However, the maintenance equated to patching any areas requiring repair with bitmac. As a consequence, the condition of the cobbles has progressively worsened over the years. This is evidenced by assessments of the areas requiring refurbishment carried out by the HDC Corporate Facilities Manager, Design and Maintenance in approximately mid-2016, June 2018 and September 2020. On the latter two occasions representatives from STC and a local contractor were also present.

In mid-2016 the area requiring refurbishment was 600 sq. metres, with an HDC estimated cost of £70,000. The June 2018 survey assessment indicated the area requiring resurfacing was 550 sq. metres, with a further 80 sq. metres requiring cleaning and regrouting, plus additional work covering kerb and leading edges. At this point HDC estimated the costs to be £87,220, with a 20% contingency of £17,444 and estimated project management fees of £6,280. This provided the basis of the value of the delegated authority to the Chief Executive outlined above. In summary, between the two assessments the area of required works had increased and the cost increase was in excess of 20%.

The last formal assessment was in September 2020. This indicated the area requiring resurfacing had increased to 626 sq. metres, with a further 100 sq. metres requiring cleaning and regrouting, plus additional work covering kerb and leading edges. The HDC estimated costs had risen to £97,666,

excluding any contingency, an increase of 12% from the previous measure. All parties agreed that the pace of deterioration of cobbles was quickening.

#### **4. OFF STREET PARKING PLACES ORDER**

As outlined above, a contingent element of the 1999 lease was the implementation of an OSPPO for the leased areas. An important part of the overall process including the surrender of the lease was the retention of not only an OSPPO but also a capability to enforce the OSPPO.

Recognising the importance of ensuring the new STC OSPPO was correctly prepared, that local solicitors lacked a capability in this area and that HDC would not be able to provide this input, a number of companies expert in this area were contacted. This resulted in the appointment of Ward Hadaway in Newcastle to undertake the work with effect from early Spring 2020.

Whilst work on the preparation of the OSPPO was undertaken discussions commenced with Scarborough Borough Council (SBC) to establish an enforcement contract. This yielded an unexpected issue in early 2021 relating to the need for STC membership of the Traffic Tribunal as a key requirement to enforce the new OSPPO. At that time no third tier council (i.e. parish or town council) was a member of the tribunal and the tribunal required legal confirmation that a third-tier council could become a member.

It took until September 2021 before this issue was resolved when the Director of PATROL (Parking and Traffic Regulations Outside London) Joint Committee confirmed that STC could become the first third tier member of the committee which administers the traffic tribunal.

A draft enforcement contract was not received from SBC until early March 2022.

A further delay has been the receipt of formal consent from NYCC Following contact with the Property Lawyer, Legal Services at HDC

This cleared the way for preparation of both the formal consultation on the new OSPPO, which commenced in late November 2021 and for preparation and publication of the cobbles refurbishment tender.

#### **5. COBBLES TENDER**

Following the September 2020 survey and receipt of the results from it, in February 2021, STC requested and subsequently received agreement from HDC in August 2021 that it would work with and support STC to progress the issue of a tender and the subsequent award of a tender for the refurbishment of the cobbles. Despite assurances that that draft tender documentation would be provided by October 2021, the full set was not provided until mid-January 2022.

The formal tender documents were issued on 17 January 2022 to four contractors identified by HDC as capable of undertaking the refurbishment work.

Only one tender was returned by the submission deadline, from local company Foden Spence Construction Ltd. Using a matrix provided by HDC, STC carried out a quality assessment of the Foden Spence submission. This confirmed that it met the mandatory quality requirements and scored well on the other quality method statement elements in the matrix. The HDC Corporate Facilities Manager, Design and Maintenance advised that he would be content to progress a contract on the basis of the submitted tender in terms of both the quality and the price of the submission. It is noted that Foden Spence has carried out 95% of all the cobbles work undertaken by HDC in the last 35 Years. Therefore, this tender has been used in the following funding request.

## 6. GRANT REQUEST

There are several components forming the grant request. Each element is outlined below and then the total summarised at the foot of this section. All costs are quoted net of VAT.

### a) Legal Fees

These are the fees charged by Ward Hadaway for the preparation of the OSPPO and associated work. This included the effect of the existing order, drafting the new Order and the provision of advice in respect of powers, Council reports and decision-making, detailed advice on process and preparation of the Order map.

In discussions with STC, Ward Hadaway significantly discounted its standard rates for this type of work and has written off £14,000 of accrued costs to leave an invoiced value of £11,506, against which HDC has already made a grant of £6,500.

### b) Cobble Refurbishment Costs

These comprise the full cost of the tender quotation of £134,895.98 as reviewed by the HDC Corporate Facilities Manager, Design and Maintenance, which was based on condition survey jointly undertaken in September 2020.

Additionally, recognising the progressive deterioration of the condition of the cobbles STC requested the successful tenderer to undertake a remeasure of the areas requiring refurbishment as at March 2022. This identified an increase of 163 sq. metres over and above the tender quantities, equating to a cost increase of £19,873 based on the tender submission rates.

A contingency of 20% of the above costs has been included, equating to £30,954. This is consistent with the contingency applied in 2018 and approved by HDC Cabinet, and with the advice provided by the Project Manager.

### c) Project Management Fees

The HDC Corporate Facilities Manager, Design and Maintenance highlighted the requirement for a professional Project Manager to be appointed to oversee the project on behalf of STC. Such an appointment was approved in principle in the meeting between the Leader and the Chief Executive of HDC and representatives from STC on 1 March 2022.

Subsequently, based on advice from HDC, a quote was sought from Tanton Industries Ltd, Stokesley for the work. The quotation received was for the total of £13,200.

### d) OSPPO Notices

Formal notices of the consultation on the proposed introduction of the new OSPPO and the subsequent making of the OSPPO are required in the local press. Close liaison with HDC property Lawyer eliminated some duplication and led to the consultation on the proposed STC OSPPO and the proposed revocation of the HDC OSPPO being included in the same single notice, which was billed to STC at a total cost of £559.29.

It is proposed a similar arrangement will apply to the formal making the STC OSPPO and the revocation of the HDC OSPPO, at the same total cost which would be billed to STC.

### e) New Signage

With the change of enforcing authority new signage is required. Prices were sought from companies advised by the HDC Corporate Facilities Manager, Design and Maintenance. The price of £686 is based on supply from N-Sign, Stockton, a company that HDC has used for many years.

#### f) Other Documents

Current supplies of parking disks held by HDC are negligible. The cost included is based on the redesign and the supply of new disks through Catch Designs, Stokesley, the company that STC already uses as its preferred supplier, following tendering, for the design and maintenance of its website and other promotional documentation.

No charge has been included in the funding request to cover the additional costs of stationery required for the consultation with local businesses and residents, nor for the redesign and provision of residents and visitors parking permits.

#### g) Summary

The table below summarises the above costs and nets off the grant already made by HDC in respect of the Legal Fees to show outstanding costs of £208,583.36.

| <b>Summary of Costs Associated with Surrender of Cobbles Lease by HDC</b> |                                           |                    |                            |                    |
|---------------------------------------------------------------------------|-------------------------------------------|--------------------|----------------------------|--------------------|
| <b>Item</b>                                                               | <b>Provider</b>                           | <b>Value</b>       | <b>Paid To Date by HDC</b> | <b>Outstanding</b> |
| Legal Fees Invoiced to date for Preparation of Town Council OSPPO         | Ward Hadaway, Newcastle                   | £10,006.00         | £6,500.00                  | £3,506.00          |
| Legal Fees Outstanding for Preparation of Town Council OSPPO              | Ward Hadaway, Newcastle                   | £1,500.00          | £0.00                      | £1,500.00          |
| Tender Value for Cobbles Refurbishment                                    | Foden Spence Construction, Stokesley      | £134,895.98        | £0.00                      | £134,895.98        |
| Increase in Tender Costs from Remeasure                                   | Foden Spence Construction, Stokesley      | £19,873.00         | £0.00                      | £19,873.00         |
| 20% Contingency for Cobbles Refurbishment                                 | Foden Spence Construction, Stokesley      | £30,953.80         | £0.00                      | £30,953.80         |
| Project Management Fees                                                   | Tanton Industries, Stokesley              | £13,200.00         | £0.00                      | £13,200.00         |
| Publication of OSPPO Consultation                                         | Darlington & Stockton Times               | £559.29            | £0.00                      | £559.29            |
| Publication of Making of OSPPO                                            | Darlington & Stockton Times (Provisional) | £559.29            | £0.00                      | £559.29            |
| New Signage                                                               | N-Sign, Stockton-on-Tees                  | £686.00            | £0.00                      | £686.00            |
| Parking Disc Re-design and Supply                                         | Catch Design, Stokesley                   | £2,850.00          | £0.00                      | £2,850.00          |
| <b>Total</b>                                                              |                                           | <b>£215,083.36</b> | <b>£6,500.00</b>           | <b>£208,583.36</b> |

Accordingly, Stokesley Town Council now formally requests from Hambleton District Council grants to the maximum value, including contingencies, of £208,583.86 to the cover costs incurred with the surrender of the 1999 lease between Stokesley Town Council (as lessor) and Hambleton District Council (as lessee) for Land at Stokesley.