



BY EMAIL

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Dear Matthew

Brighton – Full Business Case Approval (3Ts Programme)

Following the Chancellor's announcement last week of the outcome of the Spending Review I am writing to confirm approval of the Full Business Case (FBC) for the redevelopment of the Royal Sussex County Hospital (RSCH) in Brighton. This approval is subject to a number of specific conditions to ensure that the scheme represents value for money for the taxpayer and that it remains affordable, and these are set out below.

The NHS Trust Development Authority (TDA), the Department of Health (DH) and HM Treasury based their reviews on the 2014 FBC ("3Ts Programme") and subsequent updates and clarifications. The FBC identified a total capital expenditure (inclusive of optimism bias, inflation and net of abatement to VAT) of £480 million. The Trust is seeking approval to enter into a fixed price contract for stage 1 of the redevelopment.

Approval is provided for the revised forecast capital cost of the project which is £484.8 million inclusive of fees, equipment costs, fixed inflation allowance for stage 1 and forecast inflation allowance for stage 2 and VAT. This figure also includes non-works costs which relate to the decant and enabling programme but excludes elements being funded from other sources. Approval is provided for the Trust to sign a Phase 4 ProCure 21 contract with its Principal Supply Chain Partner (PSCP), Laing O'Rourke, with a Guaranteed Maximum Price (GMP) of £362.996 million offered by Laing O'Rourke for the whole development.

With regards to stage 1 of the development, it is understood that Laing O'Rourke has agreed to accept the risk of the inflation out-turn costs for that stage. The GMP for stage 1 is £275.66 million and the total cash requirement for stage 1 is £381.682 million, although it is noted that this includes decant and enabling works, and that an element of the design fees and enabling works has already been funded through prior approvals. A breakdown of these costs is shown at Appendix 1.

The Department will commit to funding VAT at the prevailing rates, which could, over the timeframe of this scheme, differ from the 20% rate currently suffered on most supplies.

You are asked to note the following approval conditions.

Capital cost

- The Trust shall reconfirm, immediately prior to contract signature, that the GMP remains within the approved value.
- The Trust shall provide regular updates on how it is managing risks to its capital budget.



- The Trust should make every effort to find ways to reduce overall capital spend that does not require patient areas to be shelled space. This can be done post financial close (an example would be to remove the artwork budget and seek alternative funding sources).
- The PSCP shall bear the risk of cost increases that result in the GMP being exceeded, in accordance with normal ProCure 21 principles. Cost savings compared with GMP will also be allocated in accordance with ProCure 21.
- Any increases in capital costs that are not a PSCP risk, and are not covered by allowances included in the costings approved by this letter must be covered from the Trust's resources.
- The sale proceeds from asset disposals (including, not exclusively, St. Mary's Hall) should be applied to help fund the 3Ts development. The terms on which these proceeds are to be applied (including the timing) are for further discussion, but I am afraid the principle is not.

Funding

- While the business case has been submitted on the basis of PDC funding the Trust was previously advised that funding would be a mix of loans and PDC. The specific split between loans funding and public dividend capital will need to be formally agreed. Officials have discussed an indicative funding package with the TDA which indicates a loan of circa £107 million with the balance of the approved amount, net of any sale proceeds from asset disposals, provided as PDC. It is proposed that funding is released as cash expenditure is incurred with rolling forecasts to be maintained throughout the build phase.

Subsequent stages

- During stage 1 construction, the Trust shall undertake ongoing reviews of the scope of stages 2 and 3 to ensure the specification continues to meet the requirements of the Trust and commissioners.
- Prior to agreeing commercial contracts for stages 2 and 3 the Trust shall review with the Department and other stakeholders the outcome of the pricing review of stages 2 and 3 to be carried out by the PSCP prior to commencement of stage 2 (in accordance with the terms of the contract the Trust proposes to enter into with Laing O'Rourke). The review will also take account of the updated requirements of the Trust and its commissioners, the financial position of the Trust and its local health economy and wider NHS requirements.

As part of the Department's review it has considered commissioners support for the scheme. The Trust's commissioners (both the local Clinical Commissioning Groups and NHS England) have confirmed that they recognise the risks with the Trust's plans and their role in managing those risks and resolving any emergent issues.

TDA specific approval conditions

The TDA has approved the FBC subject to a number of conditions.

- The Trust commits to work with Commissioners to manage the capacity and sustainability in the context of the local health economy.
- The Trust reviews and assesses the refurbishment plans for the Emergency Department in light of continuing poor operational performance taking account of the quality and safety issues reported by the Care Quality Commission.
- The Trust develops and delivers an efficiency programme that drives benefits from the opportunities presented by the new facility.
- The Trust develops a Recruitment and Development Strategy with agreed trajectories for improvement by staff groups to support workforce transformation.



- The TDA will enhance its surveillance of the Infection Prevention and Control (IPC) issues in the Trust to be assured that the IPC risks are identified, assessed and mitigated if applicable as the project progresses.

Procurement

The Trust intends to enter a ProCure 21 contract to deliver all of the works and this arrangement has already been used to appoint a PSCP, Laing O'Rourke. Any change of PSCP or other revisiting of the procurement would require approval, and, until that approval is granted, potentially result in a suspension of the DH's commitment to provide funding.

This approval is valid for three months from the date of this letter; if financial close has not been reached within that time, then re-approval will be required.

It is a requirement for public accountability and openness that NHS trusts publish business cases that are refreshed for all necessary changes occurring as a result of the approval process. This should be done within a reasonable time of approval; I would suggest that the business case is published on the Trust's website within a month of the date of this letter, but this must in any event be done within three months.

The TDA will provide close oversight of the project to ensure that key milestones are met, that savings are realised and no further subsidies sought and the national stakeholder group will continue to regularly meet during the construction phase. I will seek to ensure that any DH requirements for project delivery oversight can be met from routine reference to TDA.

Finally, I would like to thank your team for the hard work in producing the business cases, and in responding to the various requests for clarification of parts of it.

I am copying this letter to Jim Mackey, Bob Alexander, Anne Eden and Paul Baumann.

Yours sincerely

DAVID WILLIAMS
DIRECTOR GENERAL, FINANCE, COMMERCIAL AND NHS

Appendix 1: Build-up of GMP contract cost

| | Stage 1 | Stage 2 | Stage 3 | Total | Other funding sources | Total LOR GMP |
|-------------------------------------|----------------|---------------|--------------|----------------|-----------------------|----------------|
| FBC & other funding | 381,682 | 92,714 | 10,391 | 484,787 | 23,948 | 508,735 |
| OBC sunk costs | | | | | 3,709 | 3,709 |
| Non works | (28,102) | | | (28,102) | | (28,102) |
| Equipment | (17,750) | (9,879) | | (27,629) | | (27,629) |
| Contingency | (10,493) | (4,548) | (273) | (15,314) | (1,321) | (16,635) |
| Inflation adjustment | | (4,225) | (500) | (4,725) | (5,495) | (10,220) |
| Less all VAT | (50,697) | (10,243) | (1,390) | (62,330) | (3,663) | (65,993) |
| Less trust fees | (5,947) | (2,150) | (350) | (8,447) | (303) | (8,750) |
| Add back LOR con risk | 5,966 | 899 | 15 | 6,880 | | 6,880 |
| Add helicopter deck | 1,000 | | | 1,000 | | 1,000 |
| Total LOR contract sum (GMP) | 275,660 | 62,568 | 7,893 | 346,120 | 16,875 | 362,995 |
| LOR design fees | (41,461) | (2,230) | (1,115) | (44,806) | (1,571) | (46,377) |
| LOR fee on fees | (3,110) | (167) | (84) | (3,361) | (118) | (3,479) |
| LOR cost risk | (5,966) | (899) | (15) | (6,880) | | (6,880) |
| Helipad contribution | | | | 0 | | 0 |
| Total | 225,122 | 59,272 | 6,679 | 291,073 | 15,186 | 306,259 |
| Location adjustment | (27,515) | (7,367) | (864) | (35,746) | 0 | (35,746) |
| Work cost (FB forms) | 197,607 | 51,905 | 5,815 | 255,327 | 15,186 | 270,513 |