

Delegated Officer Report (Non Key and Contracts up to a value of £100k)

Decision Maker: Director of Environment, Nasir Dad

Date of Decision: 22 August 2023

Subject: Pennine Way National Trail Maintenance

Report Author: Liam Kennedy, PRow Officer

Ward (s): Saddleworth North

Reason for the decision: OMBC have successfully secured Grant funding on an 85:15 basis from the Yorkshire Dales National Park Authority to deliver a maintenance scheme on a section of the Pennine Way National Trail (approx. 960m) and a further 70:30 for the rectification of subsidence on site.

Summary: To date, Oldham Council has secured £43,173.01 and £3,230.69 from the Yorkshire Dales National Park Authority. Both schemes have been quoted by the preferred Pennine Trails contractor (CPY Excavations) at £50,791.77 and £4,615.27, respectively. The schemes will deliver 960 linear metres of new laid track on the existing alignment of the Pennine Way and resolve a hazardous subsidence issue.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s): Option 1: To approve the recommendation and proceed with delivery.
Option 2: Not to approve the recommendation with no guarantee the funding will be available from the Yorkshire Dales National Park Authority in future financial years.

Recommendation(s): That the offer of grant funding be accepted and the scheme delivered.

Implications:

What are the **financial** implications?

The Council has been awarded £46.4k of Pennine National Trail grant via the Yorkshire Dales National Park Authority. This report outlines the acceptance of the grant and awarding of the contract to CPY Excavations to deliver the scheme.

It advises that the cost to deliver 960 linear meters of new laid track on the existing alignment on the Pennine Way as stated within this report will be circa. £55.4k and will be capital expenditure.

This will be funded from the 'Public Rights of Way' scheme within the 2023/24 Transport Capital Programme, which will be financed by Pennine National Trails Grant (£46.4k) and LTP Highway Maintenance Grant match funding (£9k).

(John Edisbury)

What are the **legal** implications?

None (Alan Evans)

What are the **procurement** implications?

As detailed within Appendix 1/Background Paper Rule 21 of the CPRs allows for a contract to be awarded without following the relevant process under Rule 4 of the CPRs in exceptional circumstances. The circumstances justifying an exemption is detailed within Appendix A. The Decision Maker is satisfied with these circumstances in that these are exceptional and the Commercial Procurement Unit therefore supports the request to exempt CPRs and to make a direct contract award.

(Irfan Oomer – Senior Category Manager, Commercial Procurement Unit)

What are the **Human Resources** implications?

None

Equality and Diversity Impact Assessment attached or not required because (please give reason)

Not applicable

What are the **property** implications

None

Risks:

None

Co-operative agenda

This proposal will ensure that the Pennine Way National Trail is maintained effectively so the site can be enjoyed safely by people visiting the trail (Mahmuda Khanom)

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

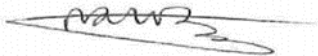
There are no background papers for this report

Report Author Sign-off:	
Liam Kennedy	
Date: 22 August 2023	

Please list and attach any appendices:-

Appendix number or letter	Description
A	CPR Exemption Report

In consultation with Director of Environment



Signed :

Date: 23.08.23

APPENDIX A
CPR EXEMPTION REPORT

Delegated Officer Report **(Non Key and Contracts up to a value of £100k)**

NOT FOR PUBLICATION by virtue of Paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and it is not in the public interest to disclose the information because information relating to the financial or business affairs of any particular person including the Council

Decision Maker: Director of Environment, Nasir Dad

Date of Decision: 15 August 2023

Subject: Seeking exemption to Contract Procedure Rules for the implementation of maintenance scheme on the Pennine Way

Report Author: Liam Kennedy, PROW Officer

Ward (s): Not Applicable

Reason for the decision: To seek approval for exemption from CPR with the aim to deliver a specialist scheme of works on the Pennine Way by CPY Excavations.

Summary: The planned scheme on the Pennine Way lies within a Natural England designated Site of Special Scientific Interest (SSSI). The proposed works require specialist knowledge and experience. Particularly specialist knowledge relating to path construction techniques and habitat restoration as well as specialist equipment for accessing otherwise inaccessible locations. The permissions required to work on such sites have been granted by Natural England but only with a window of 1 September - 1 December 2023.

Having undertaken similar works elsewhere on both the Pennine Way and the Pennine Bridleway for OMBC, CPY Excavations have committed their availability to deliver this job in the restrictive time frame that is determined by the designations of this site.

This scheme comes in at a total cost of £55,407.04. This cost is being grant funded by

the Yorkshire Dales National Park Authority to the value of £46,403.70 ultimately costing OMBC £9,003.34.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Undertake an open quotation process in accordance with Contract Procedure Rules -
Due to the time restraints and required specialist knowledge and operations it is highly unlikely to source an alternative contractor with the necessary knowledge and experience of delivering this scheme.

Recommendation(s):

Exempt Contract Procedure Rules and approve the direct award of a contract to CPY Excavations - Due to the time restraints and required specialist knowledge and operations it is recommended to proceed with CPY Excavations as the designated contractor with a proven history of similar schemes.

Implications:

What are the financial implications?

The cost to deliver 960 linear meters of new laid track on the existing alignment on the Pennine Way as stated within this report will be circa. £55.4k and will be capital expenditure.

This will be funded from the 'Public Rights of Way' scheme within the 2023/24 Transport Capital Programme, which will be financed by Pennine National Trails Grant (£46.4k) and LTP Highway Maintenance Grant match funding (£9k).

(John Edisbury)

What are the legal implications?

Rule 4 of the Contract Procedure Rules requires an open quotation process to be carried out where the value of the proposed contract is between £29k and £99,999.

However, Rule 21 makes provision to allow a waiver of the requirement to undertake an open quotation process in "exceptional circumstances". Rule 21.3 details a number of examples of exceptional circumstances, but the list is not exhaustive.

In this matter, it is submitted that the works are of a specialist nature and specialist equipment will be needed. Whilst the main body of the report does not state that there is only one

contractor who could carry out the works, it does assert that it would be highly unlikely that the Council could source an alternative contractor with the necessary knowledge and experience of delivering the scheme within the 3 month window permitted by Natural England.

In deciding whether to authorise an exemption to the Contract Procedure Rules and that the Council enters into a contract with CPY Excavation, the decision maker must be satisfied that exceptional circumstances have been objectively evidenced in this report.
(Sarah Orrell – Commercial and Procurement Solicitor)

What are the **procurement** implications?

As detailed in the legal comments, Rule 21 of the CPRs allows for a contract to be awarded without following the relevant process under Rule 4 of the CPRs in exceptional circumstances. The circumstances justifying an exemption are as detailed in this report. Provided the decision maker is satisfied these circumstances are exceptional, the Commercial Procurement Unit supports the request to exempt CPRs and to make a direct contract award.
(Irfan Oomer – Senior Category Manager, Commercial Procurement Unit)

What are the **Human Resources** implications?

None

Equality and Diversity Impact Assessment attached or not required because (please give reason)

None

What are the **property** implications

None

Risks:

The scheme will be unable to be delivered and the works undertaken with no assurance or guarantee that a similar level of funding from the Yorkshire Dales National Park Authority will be available next financial year.

Co-operative agenda

This proposal will ensure that the Pennine Way National Trail is maintained effectively so the site can be enjoyed safely by people visiting the trail
(Mahmuda Khanom)

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

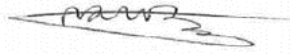
Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

There are no background papers for this report

Report Author Sign-off:	
Liam Kennedy	
Date: 15 August 2023	

In consultation with Director of Environment

Signed :



Date: 22.08.2023