

REPORT TO:	AUDIT PANEL
DATE:	1 March 2016
REPORTING OFFICER:	Ian Saxon – Assistant Executive Director Environmental Services
SUBJECT:	ASHTON CENTRAL MOSQUE (FORMERLY MARKAZI JAMIA MOSQUE) UPDATE
REPORT SUMMARY:	This report highlights the outstanding issues as part of the Relocation Agreement and Supplemental Agreement between Tameside and the Trustees of Ashton Central Mosque.
RECOMMENDATIONS:	That the report and the likely completion date of the land transfer be noted.
FINANCIAL IMPLICATIONS: (AUTHORISED BY THE SECTION 151 OFFICER)	The External Auditors in their Audit Findings Report 2015 have identified the outstanding issues relating to the Markazi Jamia Mosque as a risk, it is crucial that the matter is resolved. As the legal ownership has not formally passed to the Mosque Trustees, the Council could be liable for any structural or internal damages that may occur prior to legal transfer.
LEGAL IMPLICATIONS: (AUTHORISED BY THE BOROUGH SOLICITOR)	There is no reason why the transfer should not take place – any litigation that the Mosque Trustees may have with third parties is not connected with this.
LINKS TO COMMUNITY STRATEGY:	Prosperous Tameside Supportive Tameside
POLICY IMPLICATIONS:	There are no policy implications.
RISK MANAGEMENT:	Failure to transfer the asset exposes the Council to continued risk. If the Trustees and Galliford Try fail to reach a final settlement on the contract this could result in a legal challenge against the Council.
ACCESS TO INFORMATION:	The background papers relating to this report can be inspected by contacting the report writer, Lee Holland, Head of Environmental Services :



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1. BACKGROUND

- 1.1 On 8 January 2010 AGMA Wider leadership Team received an approval recommendation report for the Ashton Northern Bypass Stage 2 scheme, following an independent review of the business case for the scheme in December 2009.
- 1.2 On 29 January 2010, AGMA Executive endorsed the recommendation of the Wider Leadership Team, and granted full approval to the first part of the Ashton Northern Bypass Scheme Stage 2 (retaining walls, utility diversions and Mosque relocation), and at the same time granted conditional approval for the remaining highway works. Subsequently, on 26 November 2010, AGMA Executive endorsed the recommendation of the Wider Leadership Team, and granted full approval for the remaining highway works.
- 1.3 The Ashton Northern Bypass Stage 2 scheme comprised of a new road that linked Wellington Road from its junction with Turner Lane to Crickets Lane North at its junction with Penny Meadow. The road is a single lane width in each direction, widening out to additional lanes on approaches to traffic signalled junctions at Wellington Road/Turner Lane/ Warrington Street, Henrietta Street, and Penny Meadow/ Crickets Lane North.
- 1.4 The road runs adjacent to the south side of the railway line, through part of the existing car parks. Some land acquisition was required, including the Markazi Jamia Mosque on Newton Street and premises on Penny Meadow opposite Crickets Lane North. All the land, not in the Council's ownership, was acquired either by negotiation or via a Compulsory Purchase Order (CPO). The existing mosque was acquired for the bypass and a Relocation Agreement between Tameside and the Trustees of the mosque was signed on 16 June 2006 together with a Supplemental Agreement signed on the 25 May 2010.
- 1.5 The Trustees entered into a construction contract with Galliford Try Construction for the construction of the new mosque and works started on site in May 2010 with an anticipated completion date of May 2011. During the construction period delays were experienced due to inclement weather and unforeseen ground conditions amongst other things. These delays were causing an impact on the vacation of the existing mosque and thereby had the potential to delay the opening of the bypass, which carried serious reputational risk for the Council. To mitigate these delays and accelerate the completion of the mosque agreement was reach between the Trustees, Galliford Try and the Council to delete some none essential items from the construction contract. This enabled the contractor to achieve Practical Completion on 30 September 2011.
- 1.6 The Trustees vacated the existing mosque in October 2011 and the bypass was opened, on time, to the public on 30 January 2012.
- 1.7 During the Rectification Period for the Mosque a snagging list was produced by the Project Administrator, Catalyst Regeneration (UK) Ltd. The list consisted of 154 items to be corrected. During the last three years progress to resolve these issues has stagnated due to disputes between both parties. Currently there are 40 items on the snagging list still to be repaired and 5 contentious items that are in dispute.

2. OUTSTANDING ITEMS

- 2.1 There are three outstanding items to be finalised between the Trustees and Tameside, these are as follows:
 - Freehold land transfer for the new mosque site
 - The retention monies owed to the construction contractor, Galliford Try Construction
 - The remainder of the monies to the Trustees for the construction items taken out of the construction contract to accelerate completion of the new mosque

Freehold Land Transfer

- 2.2 Tameside has prepared the land transfer (TR1 form) and is awaiting confirmation / completion of this document from the Trustees' legal representatives. Tameside's legal services are communicating with the Trustee's legal representative with a view to completing the transfer as soon as possible.

Retention Monies

- 2.3 The construction contract for the new mosque is between The Trustees and Galliford Try Construction, Tameside are not party to this contract. Catalyst Regeneration (UK) Ltd was appointed as Architect and Project Administrator by the Trustees. As part of the Relocation Agreement Tameside is legally obliged to pay all eligible costs for the construction of the mosque which are authorised by the Project Administrator. The only outstanding payment on the construction contract is the retention monies (£76,353.96). However, due to the dispute the Project Administrator has not certified the release of any part of the retention.
- 2.4 Galliford Try has informed the Trustees and the Contract Administrator that if a determination on the retention monies has not been resolved imminently then they will be referring the matter for a legal contractual resolution.

Items taken out of the Construction Contract

- 2.5 There is £82,500 worth of items still outstanding to be completed by the Trustees that were taken out of the main construction contract to ensure the existing mosque could be vacated without having a consequential delay on the completion of the bypass contract. Some of these items cannot be completed until the defects have been rectified. Once these items have been completed or a full and final settlement agreement is signed between the Council and the Trustees the outstanding monies will be paid.

3. RECOMMENDATIONS

- 3.1 That the report and the likely completion date of the land transfer be noted.