

[REDACTED]

From:

[REDACTED] on behalf of Williams, David

<David.Williams@dh.gsi.gov.uk>

Sent:

09 December 2015 11:45

To:

'tobylewis@nhs.net'

Cc:

Baumann , Paul; bob.alexander; Jim Mackey; 'richard.samuda@nhs.net'

Subject:

Approval letter for the Sandwell "Midland Metropolitan Hospital" CBC

Attachments:

Sandwell MMH CBC approval letter - 09.12.2015.pdf

Sent on behalf of David Williams, Director General, Finance, Commercial and NHS

Toby

Please find attached the approval letter for the Sandwell "Midland Metropolitan Hospital" CBC from David Williams.



Department
of Health

[REDACTED]
Finance, Commercial and NHS Directorate

Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS

E: [REDACTED] T: [REDACTED] M: [REDACTED]

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BY EMAIL

Mr Toby Lewis
Chief Executive
Sandwell and West Birmingham Hospital NHS Trust
First Floor, Trust Headquarters
Health and Wellbeing Centre
Sandwell Hospital
B71 4HJ

9 December 2015

Dear Toby

Approval of the Confirming Business Case for the new Midland Metropolitan Hospital

I am pleased to confirm that the Department of Health (DH) has formally approved the Confirming Business Case (CBC). The Trust may now proceed to financial close and signing of the PF2 contract.

You should note that approval of the scheme is subject to the scheme remaining within the following key parameters:

- i. No subsequent amendments shall be made to the Project Agreement and Schedules without the approval of the Department's Commercial Division.
- ii. Financial Close must be achieved within three months of the date of this letter. If financial close has not been reached within that time, re-approval will be required.

It is important that both the Trust and its preferred bidder are aware that in the event that either of the approval conditions above are breached, or if agreed positions are reopened (whether in the contract or otherwise) then the Department may require re-approval of the business case which would be likely to cause delay to the financial close. In such circumstances, we would expect the party responsible to bear the costs of such delay.

At Appointment Business Case (ABC) stage the assumed Unitary Payment (UP) was £22.272 million (in the first year of operation). Following the funding competitions, the agreed unitary payment is £19.633 million (excluding any buffer for interest rate movements). The UP is expected to remain below the figure of £22.272 million identified at ABC stage and the Trust should inform the Department if it considers that this is at risk of being exceeded.

Please note that further approval is required from the Department if any additional variations during construction exceed £2 million or 2% of capital costs, whichever is the lesser. Where there is more than one variation, their aggregate costs count towards the limit.

Under the terms of its agreement with HM Treasury regarding the investment of public sector equity in the MMH Project Company, DH has the right to appoint an observer to attend, but not

participate in or vote at, Board meetings of the Project Company. DH has agreed that the Trust will be entitled to nominate the observer, subject to the following terms:

- The Trust will consult with DH and HM Treasury's Infrastructure investment unit (IUK) before nominating an observer.
- The Trust will change the nominated representative whenever DH so requests.
- Each observer will be required to sign a confidentiality undertaking in a form required by IUK.
- The observer will comply with any requirements of the memorandum and articles of the Project Company which may be relevant to the observer.
- The observer will not be entitled to receive any fee or other remuneration in connection with his or her role.

The NHS Trust Development Authority (TDA) has the following approval conditions:

- iii. The NHS Trust should continue to work towards satisfying conditions that were imposed for completion by financial close.
- iv. The Trust to work with the TDA to make sure that the Key Performance Indicators that have been developed as a response to ABC approval condition 46 (develop a framework to measure actual performance) are collated and shared quarterly as agreed by the Stakeholder Board. The framework in operation should also monitor:
 - Assumptions underpinning activity changes under the umbrella of Right Care Right Here
 - Assurance regarding the delivery of the assumed margin on repatriation activity within the model
 - Monitoring delivery of CIP against assumptions in the model, including tracking of whole time equivalent net reductions
 - Tracking delivery of the assumed reconfiguration savings relating to hard and soft facilities management services
 - Annual refresh of the downside scenario planning modelling, to include where appropriate, further development of Project Initiation Documents and appropriate engagement with stakeholders (e.g. staff side, commissioners, staff)
 - Monitoring the development of profitability targets by service line, using SLR, Carter model hospital work, and external benchmarking, to ensure that target EBIDTA overall is understood by service line and ultimately achieved.
- v. The Trust should undertake a review of their derogated clinical spaces within three months of the operational opening of the new hospital and this review should be shared with all partners.
- vi. The Trust should continue their work to finalise designs in line with the project timetable. This work should be in line with the recommendations in the NHSE PAU letter dated 5 November; in addition to some technical matters the letter asks the Trust to continue work to ensure that clear documented evidence of scenario testing outcomes and follow up actions is maintained for good audit and legacy purposes.
- vii. The Trust should monitor the swap rate after CBC approval and notify the TDA if it moves outside of the 0.5% buffer during the period leading up to financial close. The Department would also expect to be notified if this were to occur.



- viii. That the Trust should ensure it obtains a satisfactory independent opinion on the accounting treatment of the asset when it comes on Balance Sheet, as well as External Audit agreement.
- ix. The Trust should ensure it resolves the recommendations associated with the Internal Audit report on the Cost Improvement Programme, "Delivery and Compliance with Process", rated Amber/Red. This will be assured through the monitoring framework post financial close.
- x. The Trust should respond to the recommendations in the Gateway Review report as described in the paper to their October Reconfiguration Committee.

To complete our audit trail, please would you ensure that:

- Any amendments arising from the approval process are incorporated into the business case and the final CBC is fully checked for internal consistency.
- An electronic copy of the final combined ABC and CBC is forwarded to DH with the final project agreement, project financial model, affordability and value for money figures as at the date of contract signature.
- These combined cases are published, with a summary of the contract terms, within six weeks of financial close, incorporating all changes.

In addition, I draw your attention to the Department's guidance on post-project evaluations, requiring an initial PPE to be made 6-12 months after the new facility has been commissioned and a further review two years later to assess the long-term outcome. Copies of these evaluations must be sent to the Department.

I would like to thank your team at the trust for the excellent work they have put in to prepare and deliver your project.

I am copying this letter to Jim Mackey, Bob Alexander, Paul Baumann and Richard Samuda.

Yours sincerely

DAVID WILLIAMS
DIRECTOR GENERAL, FINANCE, COMMERCIAL AND NHS

From: [REDACTED] on behalf of Williams, David
<David.Williams@dh.gsi.gov.uk>
Sent: 02 December 2015 17:35
To: 'Matthew.Kershaw@bsuh.nhs.uk'
Cc: Jim Mackey; bob.alexander; 'anne.eden1@nhs.net'; Baumann, Paul
Subject: Approval letter for the Brighton 3Ts Redevelopment FBC
Attachments: Brighton 3Ts approval letter - DW.02.12.2015.pdf

From David Williams – Director General, Finance, Commercial and NHS

Matthew

Please find attached the approval letter for the Brighton 3Ts Redevelopment Full Business Case. I hear you are moving to a new role in the NHS – you must be pleased to get the approval before you go!

DW



Department
of Health

[REDACTED] on behalf of David Williams
Finance, Commercial and NHS Directorate
Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS
E: [REDACTED] T: [REDACTED] M: [REDACTED]
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BY EMAIL

Matthew Kershaw
Chief Executive
Brighton and Sussex University Hospitals NHS Trust
Trust Headquarters
Eastern Road
Brighton
BN2 5BE

2 December 2015

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						
OBC sunk costs						
Non works						
Equipment						
Contingency						
Inflation adjustment						
Less all VAT						
Less trust fees						
Add back LOR con risk						
Add helicopter deck						
Total LOR contract sum (GMP)						
LOR design fees						
LOR fee on fees						
LOR cost risk						
Helipad contribution						
Total						
Location adjustment						
Work cost (FB forms)						