



OFFICER DECISION NOTICE (ODN)/MAYORAL DECISION NOTICE (MDN) FORM

**NOTE: Please read process sequence on page 6 before completing this form.
Please hover over the text box for instructions on completion.**

1. Officer Decision or Mayoral Decision No.	ODN222-2020
2. Decision Title	Peterborough R & D Property Company Ltd (PROPCo2) - Incorporation
3. Name of Officer/Mayor making the decision	Kim Sawyer, Chief Executive Officer
4. Date of decision	Click or tap to enter a date.
5. Responsible Director, if applicable. Please leave blank if this is a decision to be made by the Mayor.	John T Hill, Director Business & Skills
6. Form author and contact details:	Steve Clarke – steve.clarke@cambridgeshirepeterborough-ca.gov.uk 07715 653901
7. Does your form include exempt or confidential information?	No All completed forms will be published on the CA website. NOTE: Put any confidential/exempt information as an appendix and state this is not for publication. Include the exemption category on the appendix. Please note that it is the responsibility of the Monitoring Officer to determine whether information is exempt or confidential.
8. Is it a key decision?	No
9. KEY DECISIONS ONLY	Section 9 only needs to be completed if the decision is a key decision.
Insert forward plan ref number	Click or tap here to enter text. The key decision must be on the forward plan for at least 28 days before the decision is made. Please insert reference number from the published forward plan. If it is not in the forward plan, please contact the Governance Team for advice.



Date of decision	Click or tap here to enter text.
Date report published on the website	Click or tap here to enter text.
Implementation Date	Click or tap to enter a date.
Does the report have an annex that contains exempt information?	Choose an item.

<p>10. Description of decision/proposal</p> <p>Please consult with Legal prior to completing this section.</p>	<p>The Chief Executive agrees to:</p> <ol style="list-style-type: none"> 1. incorporate a new Property Company to deliver the Phase 2 University R&D building as Peterborough R&D Property Company Ltd 2. to establish the company with the CPCA as the sole Shareholder at the point of incorporation 3. Agree the Direct Award of the Contractor for the initial Pre-Construction Service Agreement to enable the project to be designed, priced and subsequently approved. 4. to agree a budget to facilitate the legal and design fees to progress the project.
<p>11. Authorisation</p> <p>Please consult with Legal Team prior to completing this section.</p>	<p>This decision has been taken under:</p> <ol style="list-style-type: none"> 1. Quote chapter and paragraph in constitution In accordance with CPCA Constitution Chapter 17 Officer Scheme of Delegation and Proper Officers paragraph 3.5 <p>OR</p> <ol style="list-style-type: none"> 2. For delegated decisions, please reference the delegation given including meeting date and minute reference. <p>Click or tap here to enter text.</p>
<p>12. Background Information</p>	<p>Getting Building Fund (GBF) has been allocated to the CPCA for the development of the Phase 2 University of Peterborough Research & Development building. An allocation of £14.6m from Ministry of Housing, Communities & Local Government (MHCLG) was awarded in August 2020; as part of this allocation an application to deliver the project has to be submitted using the Local Growth Fund (LGF) assurance framework. The application is currently under development with Photocentric as lead organisation in partnership with the CPCA to develop a Special Purpose Vehicle (SPV) with equity investment coming from GBF and Photocentric to build the centre.</p>



Phase 2 of the University development is intrinsically linked to Phase 1 development, which was incorporated in June 2020 through an ODN and ratified in the August Combined Authority Board as part of the approval of the Full Business Case.

In order to enable the project to be completed in the funding timescales, an options appraisal was carried out with the only viable option being for a second PROPCo2 to be established between CPCA and Photocentric (this being due to State Aid implications regarding the value of LGF funding and also because the rights of ARU and Photocentric needed to be restricted to their particular phases and buildings) also, the phase two project needs to be able (and legally entitled) to purchase a part of the phase 1 land from the Peterborough Higher Education Property Company Ltd (PROPCo1)

In addition to this, the procurement of the Contractor needs to be progressed urgently and, due to time pressures, the Health & Safety and Programme risks associated with two contractors on the same parcel of land, and the lack of another organisation being able to compete commercially, it is recommended that a direct award is made to the Phase 1 contractor. This decision is facilitated by the exclusive rights option in Regulation 32 of the PCRs2015. This approach was ratified by Pinsent Mason and to mitigate the risk of a legal challenge to seek ineffectiveness, a Voluntary Ex-Anti Notification will be placed in accordance with the OJEU rules and a 10-day standstill period applied. Following this, and subject to no challenge, a contract (a PCSA and JCT D&B as used on phase 1) will be completed and an award notice published.

Also, to facilitate the future land transfer, PROPCo2 needs to be referred to in the suite of contract documentation being developed for the establishment and delivery of PROPCo1 in order that the land transfer/sale can be suitably included as an Option Agreement. This transfer will be at the same acreage rate as the transfer to Phase 1 as the decision not to transfer directly is purely to prevent a different approval being sought at Cabinet by PCC to the decision that has already been approved rather than as a commercial transaction.

The GBF has a time limited expenditure date set for March 2022 at which point MHCLG and the Dept for Business, Energy & Industrial Strategy (BEIS) expect to see funds essentially expended and a building/infrastructure nearing completion on site. This date in mind there is a requirement to ensure the incorporation of the Phase 2 property company is expedited

Initially the proposal is for the incorporated PROPCo2 to be a wholly owned CPCA company with a Director from a Directorate outside of Business & skills to ensure that their position is independent. The identity of the Director is proposed to be Finance Team member as the relevant first Director for incorporation.



<p>13. Alternative options considered.</p>	<p>List alternative options considered and rejected including the reason for rejection. NOTE: Do not leave this section blank or put 'None'. There is always an alternative even if it is to do nothing</p> <p><i>1. not incorporate Propco 2 at this time and wait until a full business case can be completed</i></p> <p><i>Risks - completing Propco1 legal documents without reference to Propco2 could prevent the future successful sale of the land needed for phase 2. Would prevent the award of a contract to the contractor to design, price up and subsequently build the Phase 2 building</i></p> <p><i>2. Incorporate Propco 2 through an ODN and then take a full report and OBC to the next Combined Authority Board to be ratified thus protecting the feasibility of delivering the projects within the funding timescales. preferred option</i></p>
<p>14. Financial Implications</p>	<p>Please include as applicable:</p> <ul style="list-style-type: none"> • The total costs and how the project will be funded. • Budget codes for your directorate. • Indicate the total cost and how it will be funded either from revenue or capital. • If revenue, indicate budget codes for your directorate. • If capital, give details including approvals from any previous capital budget approvals <p>1. The funding is coming from the getting Building Fund – an allocation of £14.6m has been agreed with Government with a notional top slice projection of 4% (TBC) to CPCA for management of the funding.</p> <p>2. Additional shareholder will be Photocentric who will subscribe later to buy shares in Propco2 based on the value of additional funding required to deliver full funding package for the land and delivery of the building - currently projecting £2m but there is room for this to increase depending on the specification of the building</p> <p>3. Peterborough City Council will not be subscribing shares in Propco2 but have an interest in this development project as they will be providing £2m for slip road and access road improvements.</p> <p>The incorporation of Propco 2 will require some legal fees and the early appointment of a contractor will require some funding to enable the designs and Business case to be developed.</p> <p>These will be recovered from the project funding.</p>
<p>15. Comments from Finance Team</p>	<p>The costs associated with the incorporation of PROPCo2, the PCSA and the legal appointment are all being top sliced from the LGF funding to ensure the project is sufficiently resourced and financially viable, whilst enabling the project time constraints to be met.</p>
<p>16. Comments from Legal Team</p>	<p>All issues, as detailed at paragraphs 10 and 12, have been reviewed by Legal Services including the proposed terms and conditions of contract in relation to the Direct Award of the Contractor and Legal Services confirm that all are fit for CPCA's purpose.</p>



<p>17. Consultation</p> <p>Please retain emails to show the relevant officers have approved the decision/proposal.</p>		<p>Please insert the name of consultee and date of written approval or insert N/A</p>
	<p>Chief Executive</p>	<p>Kim Sawyer</p>
	<p>Responsible Director/Chief Officer</p>	<p>John T Hill, 12/11/2020</p>
	<p>Monitoring Officer</p>	<p>R Parkin 27.11.20</p>
	<p>Legal</p>	<p>David Cox 15/11/20</p>
	<p>S73</p>	<p>Jon Alsop 16/11/2020</p>
	<p>Portfolio Holder</p>	<p>Add date and name or N/A Click or tap here to enter text.</p>
	<p>Other</p>	<p>Vanessa Ainsworth / Rob Emery 11/11/20 Heidi Parker 11/11/2020</p>
<p>18. Declarations/Conflicts of Interests (only if the decision falls under the 'Express authorisation' category)</p>	<p>None</p>	



19. Supporting documentation - please include any relevant reports	Click or tap here to enter text.N/A NOTE - all of this information must be retained for public inspection for a period of at least 4 years – there is no provision for the release of exempt/confidential information).	
20. Officer/Mayor signature	Signature:  Retrospective Sign off – refer summary explanation below from Alan Downton: I want to make you aware that PropCo2 has been officially incorporated on 18th November 20, before the ODN has been fully signed off. I had thought the paperwork attached had been signed off, the oversight was accidental and in finding this out, I discussed it immediately with both John T Hill and Robert Parkin. In addition to the ODN, a PropCo 2 board paper is going to the Leaders meeting on 16th December 20 and board paper & business plan is going to the Skills Committee, Business Board and CA Board in January 21. Name: Kim Sawyer	Date 15/12/2020
21. Please send the completed, signed form to Sue Hall. The Decision will be recorded on the Decision Notice Register and published on the website.		



Officer or Mayoral Decision Notice

Where an officer or the Mayor makes a decision, including under specific delegation from a meeting of a decision-making body, the effect of which is

- (a) to grant a permission or licence,
- (b) to affect the rights of an individual; or
- (c) to award a contract or incur expenditure, the decision-making officer must produce a written record of the decision as soon as reasonably practicable after the decision has been made.

Key Decisions

1. A “key decision” means a decision, which in the view of the Overview and Scrutiny Committee is likely to:
 - (a) result in the Combined Authority spending or saving a significant amount, compared with the budget for the service or function the decision relates to;
 - or (b) have a significant effect on communities living or working in an area made up of two or more wards or electoral divisions in the area.
2. When assessing whether or not a decision is a key decision, Members must consider all the circumstances of the case. However, a decision which results in a significant amount spent or saved will not generally be considered to be a key decision if that amount is less than £500,000.
3. A key decision which is considered to have a ‘significant’ effect on communities should usually be of a strategic rather than operational nature and have an outcome which will have an effect upon a significant number of people living or working in the area and impact upon: (a) the amenity of the community or; (b) quality of service provided by the Authority
4. Subject as below, a key decision may not be taken by the decision maker unless: (a) it is in the Forward Plan on the Combined Authority’s website; (b) at least 28 clear days’ notice has been given, or if this is impracticable, the decision has complied with the provisions set out in paragraph 12 or 13 below as they may apply; and (c) notice of the meeting has been given in accordance with these rules.

The process sequence below will assist you to complete this form

Process Sequence

All questions on the form must be completed.

1. Email Sue Hall for ODN/MDN number. Please include a description of the decision in your email to Sue. Sue will then email you an ODN number.
2. Please complete questions 1 to 9 on the form. Only complete question 9 if the decision is a key decision.
3. Speak to the Legal team prior to completing questions 10 and 11.
4. Complete questions 12 and 13.
5. Complete question 14, speaking to the finance team first, if you are unsure. Send the form to the finance team who will complete question 15.
6. Send form to the legal team (legal officer who is assisting you) to complete question 16.
7. Please complete question 17, as applicable with the relevant consultees. This is the person/s who approved of the decision and will always include the s73 Officer and the Monitoring Officer. You must insert their name and the date which written approval was received. All emails showing approvals by relevant officers need to be kept and stored in the folder with the ODN. Please send these to Sue Hall. If a contract exists, a copy needs to be attached to the ODN. Please insert N/A for consultees that are not applicable to the decision.
8. Complete Q18 and Q19. Supporting documents will include contracts, reports, approval emails, links to CA Board or Committee Reports etc.
9. Q20 When the decision notice is complete, it must be signed off by the correct authorised person.
10. The completed signed form must be sent to Sue Hall.