



## COUNCIL CABINET

5 October 2016

# ITEM 8

Report of the Cabinet Member for Communities  
and City Centre Regeneration

## Realignment of Victory Road

### SUMMARY

- 1.1 This report seeks approval to enter into all contracts necessary to deliver works to realign Victory Road. These include a building contract with Balfour Beatty and an Infrastructure Delivery Agreement with Rolls-Royce. A funding agreement with the D2N2 Local Economic Partnership has already received approval.
- 1.2 The proposed realignment of the Eastern end of Victory Road will contribute at a local level to improving the business environment and modernising and developing the industrial basis; specifically the realignment will ameliorate any potential negative impacts of the increased traffic from the newly completed Infinity Park Way on Victory Road and will contribute towards the development of a new aerospace campus by Rolls-Royce.
- 1.3 The Council will be responsible for delivering these works through a contract with Balfour Beatty. The works will be funded by a financial contribution from Rolls-Royce and grant funding from the Local Economic Partnership. There is no capital contribution from the Council.

### RECOMMENDATIONS

- 2.1 To approve entering into all contract documentation necessary to deliver works to realign Victory Road, and to delegate to the Strategic Director of Communities and Place, following consultation with the Cabinet Member for Communities and City Centre Regeneration, authority to finalise the details of the contract documentation.
- 2.2 To add £5.35m private sector funding to the Victory Road realignment project within the Capital Plan.
- 2.3 To approve spend, at risk, prior to D2N2 releasing payments, including spend on procurement and fees.

<b>REASONS FOR RECOMMENDATIONS</b>
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- 3.1 Cabinet approval is necessary to enter into the proposed contract documentation and to meet the requirements of the Local Economic Partnership (LEP) for the release of their grant funding.
- 3.2 Based on current estimates, the Rolls-Royce contribution is expected to be £5.35m. Note that any cost over-runs beyond contingencies, should they occur, will be met by Rolls-Royce so this figure may potentially increase over time. Equally the figure may reduce if the final cost is less than that currently estimated.
- 3.3 It is necessary to commit expenditure at risk in order to achieve the proposed programme dates.



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Report of the Strategic Director for  
Communities and Place

### SUPPORTING INFORMATION

#### 4.1 Proposals

The proposed realignment of the eastern end of Victory Road is necessary to facilitate major investment by Rolls-Royce to create an aerospace campus. The works will also help ameliorate the negative impacts of the increased traffic on Victory Road arising from the newly completed Infinity Park Way.

The proposed works will include closure of the Eastern end of Victory Road, which dissects the Rolls-Royce site, and the construction of a new road around the perimeter of the Rolls Royce site on land transferred into Council ownership by Rolls-Royce thus creating the 'realignment' of Victory Road.

Following completion, the Eastern end of Victory Road will be closed to traffic (subject to a 'Stopping Up Order') and the former highways land transferred to Rolls-Royce.

Planning consent for the proposed works, and outline consent for the Rolls-Royce campus, was approved on the 9 September 2015. Appendix 2 outlines the alignment of the new road and the land transfers between Rolls-Royce and the Council necessary to facilitate this.

#### 4.2 Contractual Arrangements

This report seeks approval to enter into the contractual arrangements necessary to deliver these works, these include:

*Infrastructure Delivery Agreement* (between the Council and Rolls-Royce) which provides for:

- The Council to be responsible for procuring and delivering the agreed works in line with the planning consent;
- The detailed contract management and consultation arrangements between Rolls-Royce and the Council during the contract;
- The financial arrangements between the Council and Rolls-Royce (see 4.3 below);

- Land transfers between the Council and Rolls-Royce to facilitate. Note the new road will be an adopted highway on land transferred from Rolls-Royce to the Council.

*Construction contract* (between the Council and Balfour Beatty) procured through the SCAPE framework.

*Funding Agreement* (between the Council and the Local Economic Partnership) approved at Cabinet on 9 December 2015 which provides for the LEP to pay to the Council a grant of £2m towards the cost of the road. This is subject to clawback in the event that the proposed works are not complete.

The above arrangements have been agreed in principle by Rolls-Royce but are subject to final approval. In addition the contracts are all subject to completion of the 'Stopping Up Order', put forward by Rolls-Royce to close a section of the existing Victory Road, and to the final release of the LEP's funding.

#### **4.3 Financial Arrangements**

The agreed cost plan, based on the detailed designs for the road, provide a total estimated cost of £7.35m, including works, commuted sums (to meet planning requirements), contingencies and all fees.

This will be met by the following payments to the Council:

£2m of Local Economic Partnership funding  
£5.35m of funding from Rolls-Royce  
£7.35m total

The Council's contribution is limited to the £2m of LEP funding. If the final costs increase this will be met by Rolls-Royce (i.e. there will be an increase in Rolls-Royce's £5.35m contribution); if the final costs are less than this the contract allows for a sharing mechanism of the saving between the Council and Rolls-Royce.

#### **4.4 Key Risks**

- The proposals are subject to final Rolls-Royce approval without which the scheme will not proceed.
- Completion, by Rolls-Royce, of the 'Stopping Up' arrangements for what will become the redundant section of Victory Road. Again without this the scheme will not proceed.
- All cost over-runs once the works are on site will be met either by the contractor (where the building contract places a risk on them) or by Rolls-Royce unless they are a direct result of Council negligence in the management of the Balfour Beatty contract.

- Financial claw back by the LEP or by Rolls-Royce in the event that the works are not completed.

#### **4.5 Provisional programme dates**

These are subject to the final approvals required above. However, all parties are currently working to the following programme:

Unconditional contracts: End of October 2016

Start on site: November 2016

Completion: January 2018

#### **OTHER OPTIONS CONSIDERED**

##### **5.1 Do Nothing.**

Victory Road is one of a programme of IPD projects funded by LGF1. The rationale for the Victory Road project is to enhance access to the emerging Campus and prevent 'rat running' along Victory Road. Without this work it would be difficult to deliver the concept of the aerospace campus and the consequent reinvestment in Derby and there would be significant negative highway issues on Victory Road (where it bisects the Rolls-Royce facilities).

This report has been approved by the following officers:

Legal Officer Financial Officer Human Resources Officer Service Director  Strategic Director	Emily Feenan, Principal Lawyer Martyn Marples, Director of Finance David Cox, Head of Human Resources Greg Jennings, Director of Regeneration, Property & Housing Christine Durrant, Strategic Director of Communities and Place
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For more information contact	Chris Morgan 01332 641596 Email <a href="mailto:chris.morgan@derby.gov.uk">chris.morgan@derby.gov.uk</a>
Background papers	Cabinet report 9 December 2015 financial matters (approval to accept the LGF1 grant)
List of Appendices	Appendix 1 – Implications Appendix 2 – Plans, including Land transfer plan

<b>IMPLICATIONS</b>
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### **Financial and Value for Money**

- 1.1 The total cost of the project is estimated to be £7.35m funded by the Local Economic Partnership (through the Local Growth Fund, (LGF)) and the private sector with contributions of £2m and £5.35m respectively. The LGF allocation to this project (amongst others related to Infinity Park Derby) has been approved by the LEP Board and is part of the “Growth Deal” between the government and the LEP. Without LGF funding the project would not proceed.
- 1.2 There is no direct DCC capital commitment to this project. There is a significant commitment of DCC officer time, which is costed on a fee basis and is recoverable from the LGF grant. In addition, an arrangement fee will be paid by Rolls-Royce to the Council's Regeneration Projects Division budget. An HM Treasury Green Book-compliant Business Case and Value for Money assessment was completed by DCC, with the support of consultants Genecon, to support the LGF application. The IPD project as a whole (of which this project is one part) was found to be good value for money, with a very high benefit cost ratio.
- 1.3 The LEP will release the grant funding for this project once the Council can evidence that all contracts and permissions are in place.

### **Legal**

- 2.1 DCC will enter into the Infrastructure Development Agreement to govern its relationship with Rolls-Royce during the delivery of this Project. DCC's Principal Lawyer has been involved in negotiations with Rolls-Royce in respect of the IDA, supported by Freeths LLP. Freeths LLP have also supported DCC in finalising the terms of the works contract.
- 2.2 DCC's financial exposure in respect of this project is clearly limited in the IDA to £2m of LGF grant funding and any cost overruns which arise as a result of DCC's negligence.

DCC will not enter into the works contract until the IDA is signed and is in receipt of funds from Rolls-Royce, so as to avoid any exposure to make payments to the contractor before funding is received.

Furthermore, works will not commence until Rolls Royce has obtained a 'Stopping Up' Order in respect of the section of Victory Road to be closed. This is an essential requirement of Rolls-Royce.

- 2.3 The provision of £2m grant funding from the Local Economic Partnership to the Council to contribute to these works is compliant with State Aid legislation. The project falls within Article 56 of The General Block Exemption Regulations (GBER Aid for Local Infrastructure Projects); furthermore, the project involves the construction of public highway on land within the ownership of DCC.
- 2.4 The works contract has been procured using the EU compliant SCAPE framework and the appointment of the consultants has been procured using the EU compliant Midlands Highways Alliance Framework.

### **Personnel**

- 3.1 The project budget will be used in part to fund consultancy advice and fees carried out in house, otherwise there are no Personnel implications arising out of this project.

DCC has procured independent project management services on a joint appointment basis to progress this complex agreement.

### **IT**

- 4.1 The project management and works contracts embrace the Council's IT policies and practices.

### **Equalities Impact**

- 5.1 The project management and works contracts embrace the Council's Equal Opportunities policies and practices.

### **Health and Safety**

- 6.1 As above, the project management and works contracts embrace the requirements of the Council's Health and Safety policies and practices.

### **Environmental Sustainability**

- 7.1 The requirements of the Council's Environmental Sustainability policies and practices are met in the works contract awarded.

DCC will update the Environmental Impact Assessment prepared for the planning application, which will impact on this project.

## **Asset Management**

- 8.1 DCC's Highways team will monitor assets provided/ improved through the scheme. Commuted sums for the maintenance of assets have been provisionally agreed. The latest estimate we have of these is c£560k, estimated by DCC staff and based on the '6Cs Design Guide' - Derby City Council, Derbyshire County Council, Leicester City Council, Leicestershire County Council, Nottingham City Council and Nottinghamshire County Council (known collectively as the 6Cs) came together to achieve their shared goal of developing and maintaining a regional design guide for roads, cycle ways and associated assets.

DCC's Estates Team has advised that there is a potential risk of compensation claims for noise, under Part 1 of the Land Compensation Act 1973 from adjoining owners. The project's overall risk contingency includes a provision for this.

## **Risk Management**

- 9.1 The IPD Project Delivery Board (DCC officers) and a Project Steering Group (comprising all parties) will oversee the delivery of the works in accordance with the Infrastructure Delivery Agreement and the agreed programme to help reduce and mitigate risks.

The key risks to the Council are identified in para 4.4. The project team maintain and regularly review a comprehensive risk register. The Senior Responsible Officer for the contract works is the Head of Highways Engineering.

The primary risks that DCC are taking are as a result of DCC negligence and clawback risk for failure to deliver the LGF1 outputs. All other risks fall with either the contractor, Balfour Beatty, or Rolls-Royce.

## **Corporate objectives and priorities for change**

- 10.1 This Programme will contribute towards creating for the people of Derby:
- An inspiring working life by improving skills and creating jobs
  - An inspiring place to live by improving inner city areas.