

A52 Wyvern Transport Improvements scheme – Cost Increases

SUMMARY

- 1.1 The A52 Wyvern Transport Improvements scheme is designed to provide significant highway benefits on a congested part of Derby's principal road network. The design also provides for new and improved access for sustainable transport modes and for new employment opportunities on the Derby Triangle development.
- 1.2 Unfortunately, it is necessary to report to Cabinet that since the main project works started on site there have been very significant unforeseen cost increases in relation to the works carried out to date, and it is forecast that there will be further cost increases before the project is complete. It is also anticipated that there will be delays to completion of the works; details on revised timelines will be provided when the up to date forecast is available.
- 1.3 The final, and main, element of the construction works started on site in October 2017. At this time the estimated total scheme cost, was £14.906m, in line with the approved funding contained within the Council's capital programme. In March 2018, Cabinet approved a further £2.157m, within the 2018/19 Highways and Transport capital programme, to fund the delivery of some complementary works to the main A52 junction improvement scheme.
- 1.4 With the emerging significant issues within the project, it is proposed that when the work is being reassessed, that any complementary works where it is practical and prudent to deliver at the same time, these should also be included in any revised scheme cost estimates. In this regard, the total cost associated with current A52 related works that are currently approved in the capital programme is £17.063m, made up of the original £14.906m approved scheme plus the additional £2.157m approval in March 2018 for complementary works.
- 1.5 The work to assess the revised projection of the final scheme cost, including the contracted works and any complementary works, suggests that this final cost could now be in the order of £30m. A further report will be brought back to Cabinet in September 2018 with a more accurate, revised forecast. At this time officers will also present options for funding the further anticipated shortfall, together with the implications.
- 1.6 It is not possible at this time, as part of this report, to provide a robust cost estimate for the total scheme costs, due to a range of complex circumstances surrounding elements of the detailed scheme design still to be completed and the progress of the

construction works on site. The newly appointed design team and contract manager are working closely with the contractor, GallifordTry, to re-establish a realistic cost estimate for the scheme and to control and manage down these costs.

- 1.7 In order to ensure that the Council can meet its contractual commitments and ensure that the project can progress as quickly as possible, whilst minimising any further cost increases, it is recommended that Cabinet approve further funding of £7.65m. This amount is what officers consider to be a minimum interim increase in the scheme funding, to cover the increase in the additional estimated costs of the construction works to date, and to provide the ability to instruct additional necessary works to the contractor and to provide a level of contingency.
- 1.8 The report therefore recommends that, at this point, the A52 Junction Improvements scheme costs are increased to £24.713m and that the funding shortfall of £7.65m is funded from the Council's budget risk reserve, which has a balance of £35.518m as at 31 March 2018.
- 1.9 Cabinet is also recommended to support the initiation of an internal, independent investigation by Internal Audit, into the project to determine the reasons for such a significant and unforeseen problem occurring on this project. Cabinet is also recommended to approve the procurement of independent technical and contract experts to support the project team and to provide assurance to Cabinet Members with regard to the future delivery of the scheme.

RECOMMENDATIONS

- 2.1 To note that very significant and unforeseen cost increases have occurred on the A52 Junction Improvements scheme, and at this time it is not possible to provide a robust and accurate forecast of the total scheme cost to completion.
- 2.2 To support the initiation of an internal, independent investigation into the project to determine the reasons for such a significant and unforeseen problem occurring on this project. This will be led and coordinated by the internal audit team,
- 2.3 To approve the procurement of independent technical and contract experts to support the project team and to provide assurance to Cabinet Members with regard to the future delivery of the scheme. The cost for this additional support will be incorporated into the scheme costs.
- 2.4 To approve, within the capital programme, the addition of the A52 complementary works, currently included in the Highways and Transport programme, to the A52 Junction Improvements scheme, giving a current approved cost of £17.063m.
- 2.5 To approve an interim increase in the capital budget for the A52 Wyvern Transport Improvements scheme from £17.063m to £24.713m an increase of £7.65m.
- 2.6 To approve the provision of additional funding of £7.65m towards the shortfall in scheme costs from the budget risk reserve.

- 2.7 To note there will be further increased costs associated with the scheme and that this will be the subject of a more detailed report, to be presented to Cabinet in September 2018. Until a final scheme cost estimate is available, the S151 officer cannot consider the full future financial implications.

REASONS FOR RECOMMENDATIONS

- 3.1 There has been a significant and unforeseen increase in the scheme costs. Many of these costs have already been committed, if not actually spent, and the Council must ensure that it has sufficient funds available to meet these commitments. There are also additional works that it is necessary to add into the scheme, for which funding will need to be identified.
- 3.2 It is appropriate for the Council to begin an investigation into the reasons for such an unforeseen increase in costs to occur to learn lessons and to put itself in a position to gain expert assurance for the remainder of the works.
- 3.3 It is important for Members to be aware that the total scheme cost will rise beyond the interim figure of £24.713m set out in this report. It is anticipated at this time that the total scheme cost will be around £30m.

SUPPORTING INFORMATION

Introduction

- 4.1 In December 2016, Cabinet approved the A52 Wyvern Transport Improvements scheme including:

- Approval to commence the scheme, taking into account the financial risk
- Subject to funding being confirmed to enter into the main works contract.

The final, and main, element of the construction works started on site in October 2017. At this time the total scheme cost was estimated at £14.906m, in line with the approved funding contained within the Council's capital programme. The total scheme cost includes project management and design costs, land acquisition costs, costs associated with moving utilities and the construction costs.

- 4.2 Since the main works started significant progress has been made including:

- A new concrete central reservation barrier on the A52
- Pullman Road access improvements
- Off line works on the A52 and Wyvern
- Work on the new Stanier Way roundabout junction
- Work on the new footbridge structure.

- 4.3 Unfortunately, as these works have progressed the information that is currently available shows that there are significant additional costs that have been, and are still to be incurred. At this stage we do not have a final estimate of these cost increases to the end of the project, and it is not possible to provide a robust cost estimate for the total scheme costs, due to a range of complex circumstances surrounding elements of the detailed scheme design still to be completed and the progress of the construction works on site. The Project Team is working closely with the contractor, GallifordTry, to re-establish a realistic cost estimate for the scheme and to control and manage down these costs.
- 4.4 In March 2018, Cabinet approved £2.157m, within the 2018/19 Highways and Transport capital programme, to fund the delivery of some complementary works to the main A52 junction improvement scheme.
- 4.5 With the emerging significant issues with the project, it is proposed that when the work is reassessed that any complementary works, that it makes sense to deliver at the same time, are also included in any revised scheme cost estimates.
- 4.6 To better capture the current cost and funding situation, Cabinet is recommended to approve, within the capital programme, the addition of the A52 complementary works, currently included in the Highways and Transport programme, to the A52 junction improvement scheme, giving a current approved scheme cost of £17.063m.

Scheme cost increases

- 4.7 To date, forecasts of additional costs that have been, or are very likely to be incurred, add up to £6.65m.
- 4.8 These costs include a range of issues, but the more significant figures are associated with the night time working on the A52, unforeseen ground conditions and delays in finalising the complex detailed design relating to the new footbridge.
- 4.9 In consideration of the current reassessment work being completed to re-estimate the remaining scheme costs and the current difficulties with containing costs within this project, it is prudent to seek approval to add a contingency sum of £1m to the approved project costs and funding, to enable works to be able to progress on site, whilst the remaining scheme designs and associated cost estimates are being established.
- 4.10 At this stage, in this emerging position, it is therefore recommended that the approved total scheme cost should increase from £17.063m to £24.713m, as summarised in Table 1.

Table 1 Summary of elements of increased costs

Cost estimates	£'m
Original project cost estimate	14.906
Complementary works approved in H&T programme in March 2018	2.157
Additional costs on construction contract	6.650
Contingency	1.000
Interim scheme cost estimate	24.713

Proposed funding arrangements

- 4.11 The original budget available for the total scheme as included in the current capital programme is £14.906m.
- 4.12 In March 2018, Cabinet approved £2.157m, within the 2018/19 Highways and Transport capital programme, to fund the delivery of some complementary works to the main A52 junction improvement scheme.
- 4.13 With these two current funding sources within the capital programme, this brings the shortfall in funding to £7.65m. It is recommended to Cabinet that this is funded from the budget risk reserve. Table 2 summarises the funding proposals.

Table 2 Summary of funding proposals

Funding proposals	£'m
Original scheme funding	14.906
Highways and Transport 2018/19 capital programme	2.157
Budget risk reserve	7.65
Total funding	24.713

Next Steps

- 4.14 The project design team is working as closely as possible with the contractor to ensure the optimum solution is delivered as efficiently and effectively as possible. Progress of final designs is being closely monitored. Once designs have been finalised and the contractor has provided revised costs, it will be possible to review and re-profile the programme to establish a revised scheme cost estimate. During this time, project risks will be reviewed and costed in a further Quantified Risk Assessment workshop with the contractor.
- 4.15 Members are asked to note the potential for further increased costs associated with the scheme and that this will be the subject of a more detailed report, to be presented to Cabinet in September 2018. It is anticipated at this time that the total scheme cost will be around £30m.

- 4.16 A number of other actions are being progressed to provide information and assurance to Members and officers in relation to the events that have occurred prior to this situation being known, and also to provide oversight for the remaining stages of the project.
- 4.17 An independent internal review by our Internal Audit Team has commenced and Ernst Young, our external auditors have been made aware of the scale of the overspend and ongoing risks. Internal Audit will seek to review how the scheme has been progressed and to identify what decisions have contributed to the project failings. The results of this investigation will be reported to Cabinet as soon as it is complete.
- 4.18 Members are also recommended to approve the procurement of independent technical and contract experts to provide assurance to Cabinet Members with regard to the future delivery of the scheme.

OTHER OPTIONS CONSIDERED

- 5.1 Ending the current contract and aborting the scheme is not an option for the following reasons:
- It would mean the outputs, required by our funding partners would not be achieved, and there would be an additional risk of claw back on the £6.72m Local Growth Fund and £2.6m 'Growth and Housing Fund' grants from Government;
 - Without the full scheme in place, the Derby Triangle development could not be built out in full and the estimated 3,000 jobs generated by the development would not be secured.
 - The £8,973,400 spent on the scheme to 31 March 2018 would be abortive costs.
 - Unfinished construction would become a liability for the Council.

See further Legal Implications section in Appendix 1.

- 5.2 We are looking at all ways to reduce costs and options to reduce the scope of the remaining elements of the project as we progress detailed designs.
- 5.3 We have also made provisional enquiries with our external funding partners to establish whether there is scope to increase contributions. However, the current indication is that there is no further funding likely to be made available.

This report has been approved by the following officers:

Legal officer	Emily Feenan, Principal Lawyer
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Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Amanda Fletcher and Toni Nash Head of Accountancy Don McLure, Strategic Director of Resources; David Gartside, Acting Director Strategic Partnerships, Planning and Transportation Glen O'Connell, Interim Director for Legal & Democratic Services & Monitoring Officer
For more information contact: Background papers: List of appendices:	Christine Durrant; christine.durrant@derby.gov.uk ; 01332 642434 None Appendix 1 – Implications

IMPLICATIONS

Financial and Value for Money

- 1.1 The table below shows the financial position with the updated interim cost and the available funding.

The original approved funding of £14.906m is shown with further approvals of £2.157m from the 18/19 capital programme, as well as the provision of additional funding of £7.65m towards the additional scheme costs to be funded from the budget risk reserve.

Cost estimates	£'m
Original project cost estimate	14.906
Complementary works approved in H&T programme in March 2018	2.157
Additional costs on construction contract	6.650
Contingency	1.000
Interim scheme cost estimate	24.713
Funding proposals	
Original scheme funding	14.906
Highways and Transport 2018/19 capital programme	2.157
Budget risk reserve	7.65
Total funding	24.713

- 1.2 The work to assess the revised projection of the final scheme cost, including the contracted works and any complementary works, suggests that the final scheme cost could be in the order of £30m. A further report will be brought back to Cabinet in September 2018 with this revised forecast.
- 1.3 At this stage it is not possible to provide a robust cost estimate of the total scheme cost therefore the S151 officer cannot consider the full future financial implications associated with the scheme. The full financial implications will be considered in the September 2018 cabinet report.

Legal

- 2.1 Proceeding in accordance with the recommendations does not raise Legal Implications for the Council, as the Council will continue to operate in accordance with the NEC3 Engineering and Construction Contract entered into with the Contractor ("Construction Contract") and the conditions of the Local Growth Fund, Growth Housing Fund and National Productivity Investment Fund (collectively the "Grant Conditions").

- 2.2 Legally, the Council could choose to terminate the Construction Contract and abandon the Project; however, to do so would have significant legal implications for the Council under the Construction Contract and the Grant Conditions:

Construction Contract

- 2.3 The Construction Contract provides that the Council (as “Employer”) may terminate the Construction Contract at any time and for any reason. However, in such circumstances, the Council would pay the following on termination:

- any sums due to the Contractor at the point of termination;
- cost of plant and materials on the site;
- other Contractor costs reasonably incurred in expectation of completing the whole of the works;
- the costs of removing all plant and equipment;

a proportion of the Contractor’s “Direct Fee” being a percentage of the cost of the works that the Contractor is entitled to charge as a fee to the Council.

Grant Conditions

- 2.4 The Grant Conditions contain output targets (in terms of job creation, new homes etc.) which the Council is obliged to achieve as a condition of receiving the grant funding. A decision to abandon the Project would mean that the Council would not achieve those outputs and would entitle the Funders to exercise rights of claw-back to recover Grant monies from the Council. Furthermore, a failure to deliver the scheme would cause significant reputational damage to the Council and potentially jeopardise future funding bids.

Personnel

- 3.1 None

IT

- 4.1 None

Equalities Impact

- 5.1 The delay of completing the new footbridge will have a negative impact on disabled people as the new footbridge will be fully accessible for wheelchair users and mobility scooter users, enabling them to get to this particular area of Pride Park

Health and Safety

- 6.1 None

Environmental Sustainability

7.1 None

Property and Asset Management

8.1 None

Risk Management and Safeguarding

- 9.1 There are clearly further risks associated with this contract with regard to the fact that the design team are not in a position to provide an updated cost estimate with any level of confidence. Work is progressing with the detailed design and in conjunction with the contractor to provide this estimate as soon as practical.
- 9.2 Project risks are to be reviewed and costed at a Quantified Risk Assessment workshop in June.
- 9.3 Some construction works will be progressing on site, though at a lower level than has been the case, and there will remain risks associated with progressing these works. A provision of £1m contingency has been sought within the interim project costs and funding provision to assist in managing these costs.

Corporate objectives and priorities for change

- 10.1 Derby City Council 'A Different Council' Our Council Plan 2016-2019. The Scheme supports the vision that Derby is a place where jobs and businesses are growing and we have the infrastructure to create a city for the future. It also supports the priority outcome:
- Improving housing, supporting job creation and regeneration.