

Birmingham City Council

Report to Cabinet

21st July 2020



Subject: City Centre Public Realm – Revised Financial Appraisal

Report of: Acting Director, Inclusive Growth

Relevant Cabinet Member(s): Councillor Ian Ward – Leader
Councillor Waseem Zaffar – Transport and Environment
Councillor Tristan Chatfield – Finance and Resources

Relevant O &S Chair(s): Councillor Liz Clements – Sustainability and Transport

Report author: Philip Edwards – Assistant Director, Transport and Connectivity
Tel: 0121 303 6467
Email: philip.edwards@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Ladywood		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Exempt Appendix A		
Exempt information paragraph 3. Information relating to the financial or business affairs of any particular person (including the council)		

1 Executive Summary

- 1.1 The City Centre Public Realm (CCPR) project aims to deliver high-quality public realm improvements including permanent Hostile Vehicle Mitigation (HVM)

measures, greater priority for pedestrians and cyclists and enhanced signage and wayfinding in the city centre.

- 1.2 This report seeks approval of CCPR project revised delivery strategy, revised timeline and notes the forecast financial appraisal, all set out in this report, including the release of further development funding in order to progress the project to Full Business Case (FBC).
- 1.3 The Exempt Appendix A presents the detailed financial costs and funding outlined in the Outline Business Case (OBC) and the current forecast position under the revised delivery strategy. The overall cost of the CCPR project remains unchanged from the OBC approved in October 2019 and the preferred funding sources also remain in line with the OBC, being Transforming Cities Fund (TCF), Clean Air Zone (CAZ) net proceeds and Commonwealth Games (CWG) funding. The recommendations approved within the OBC also included the use of corporate resources in the event that the funding sources identified were not approved or fell short of the required values. In addition, it noted that in the event of additional funding being subsequently secured, that this would be used to repay corporate funding. The use of corporate resources was also included and approved as part of the Council 2020/21+ Capital Programme in February 2020. This approach remains the same.
- 1.4 The FBC for the wider scheme is now expected to be submitted to Cabinet in November 2020 rather than February 2020 as reported in the OBC. The FBC will detail and seek approval of the final scheme scope, costs and associated funding.
- 1.5 As part of the revised delivery strategy approval is also sought for the direct award of a technical and professional services contract needed to undertake the detailed design of the CCPR scheme utilising the Crown Commercial Services (CCS) Project Management and Design Services Framework Agreement, as set out in section 7.4.1.1 below.

2 Recommendations

- 2.1 Approves the CCPR project revised delivery strategy, revised timeline and notes the forecast financial appraisal, all set out in this report, including the revised milestones within Section 3.8, noting also that the FBC is scheduled to be submitted to Cabinet in November 2020, which will seek approval to the final scheme scope, costs and funding sources.
- 2.2 Approves the re-allocation of £0.758m from post-contract fees to pre-contract fees to develop the CCPR project to FBC, funded from Transforming Cities Fund (TCF).
- 2.3 Approves the revised approach to undertake detailed design ahead of the approval of the FBC (as set out in section 7.4.1.1) and delegates authority to the Acting Director, Inclusive Growth in conjunction with the Assistant Director, Development and Commercial (or their delegate), the Interim Chief Finance Officer (or their delegate) and the Interim City Solicitor (or their delegate) to award a contract for the technical and professional services needed to progress the project using the Crown

Commercial Services Project Management and Design Services Framework Agreement, up to the value of £0.550m for a period of two years.

- 2.4 Authorises the Interim City Solicitor to negotiate, execute and seal and complete all necessary agreements and documentation to give effect to the above recommendations.

3 Background

- 3.1 The OBC for the CCPR scheme was approved by Cabinet on the 29th October 2019. This report gave approval for £0.944m to be spent to develop the project to FBC stage and progress design and development work. The financial summary was broken down in the OBC to pre-contract costs (all costs up to submission of FBC) and post-contract costs. The pre-contract costs were further broken down into internal fees, external fees and surveys. See Table 3 in Section 7.3.3 of this report for the approved and revised expenditure up to FBC.
- 3.2 The FBC was due to be submitted to Cabinet in February 2020. Upon review of the programme, by the new delivery team established in November 2019, the date to present the FBC was revised to November 2020 to allow time to develop the project in further detail and produce a comprehensive FBC. The tasks to be undertaken to feed into the FBC include establishing a detailed design, finalising the scope of the project, securing Early Contractor Involvement (ECI) and establishing capital and revenue costs.
- 3.3 This report seeks approval for a revised delivery strategy which is set out in Section 4.2 of this report. This approach is to deliver the project through three separate elements including: Detailed design, Victoria Square Public Realm Works undertaken by Engie Urban Energy Ltd and Main Works as outlined in the OBC.
- 3.4 Cabinet approved entering into single contractor negotiations with Engie Urban Energy Ltd for the Victoria Square Public Realm Works in the Planned Procurement Activities (March 2020 to May 2020) report dated 11th February 2020. This was to prevent construction work being carried out by two organisations in the same area, reduce disruption and improve upon construction times.
- 3.5 Professional fees are required to be re-allocated from the post-contract fees to support the development of the project to FBC.
- 3.6 In order to develop a comprehensive FBC for Cabinet, it is proposed that detailed design and ECI is undertaken prior to the submission of the FBC, rather than post submission as set out in the OBC. Advantages of undertaking the detailed design and ECI prior to the submission of the FBC include:
- Provides design assurance through identifying potential construction risks associated with the project ahead of main works commencing;
 - Establishes early engagement with the wider and specialist supply chain regarding detailed design elements e.g. river fountain and HVM;

- Provides detailed capital and revenue costs, including maintenance costs, associated with each detailed design element of the scheme including the river fountain and HVM; and
- Provides realistic project outputs and buildability in the form of early construction phasing to support the delivery of the overall City Centre Public Realm scope.

3.7 Due to the risks and complexities around construction, operation and maintenance of the HVM and river fountain, it is vitally important that the capital and revenue costs take into consideration all risks and are accurately estimated and reported in the FBC.

3.8 Following a detailed review of the project, the milestones set out in the OBC cannot be met. Taking into account the constraints of timescales and costs to deliver elements of the scheme before the 2022 Commonwealth Games and the impact of the Covid-19 pandemic, revised timescales have been developed which are outlined in Table 1 below.

Table 1: OBC vs Revised Milestones

Task	OBC Milestone	Revised Milestone	Reason for change
Stakeholder & public engagement consultation	November 2019 - January 2020	January 2020 – February 2020	Insufficient time to prepare consultation materials and engage with Business Improvement Districts/ key stakeholders, particularly given the constraint of pre-election period and the Christmas period.
Invitation to Tender Issued (ITT)	November 2019	Detailed design: N/A – direct award Works: December 2020	No concept design or tender documents complete at the point of project inception. Further constraints applied during the festive period.
Tender return	December 2019	Detailed design: N/A – direct award Works: January 2020	
Evaluation period	Dec-Jan 2020	Detailed design: July 2020 Works: Jan 2020	
Approval (Award)	January 2020	Detailed design: August 2020 Works: February 2021	
FBC approval	February 2020	November 2020	The proposed submission of the FBC to Cabinet in February 2020 was unachievable to provide the necessary level of detail to provide accurate capital, revenue and maintenance cost estimates.
Contract award and commencement	March 2020	Detailed design: September 2020 Works: February 2021	Approval of FBC required before a contract award can be issued.
Construction period (pre CWG phases)	July 2020-March 2022	Victoria Square - January 2021 Main works – May 2021-March 2022	Timescales were not feasible to produce a comprehensive FBC and complete detailed design/approvals and material procurement.

4 Options Considered and Recommended Proposal

4.1 Option 1 – Design and Build:

4.1.1 The Design and Build option, approved in the OBC is no longer a viable option for several reasons including:

- This option does not allow Engie Urban Energy Ltd to undertake the works in Victoria Square to realise the economies of scale from one contractor working in the same area;
- No Early Contractor Involvement (ECI) could be undertaken prior to submission of the FBC, resulting in uncertain capital and revenue costs; and
- Timescales to submit an unsubstantiated FBC to Cabinet and award a contract for the works will reduce the construction time.

4.2 Option 2 (recommended option) – To deliver the project through three separate elements:

- a) Detailed design;
- b) Victoria Square Public Realm; and
- c) Main Works.

4.2.1 Delivering the project through these 3 separate elements is advantageous for the following reasons:

- Provides more accurate and detailed capital and revenue costs, including maintenance costs, associated with each detailed design element of the scheme including the provision of the river fountain and HVM measures whereas with a design and build approach, the costs are built up throughout the process;
- Provides design assurance through identifying potential construction risks associated with the project ahead of main works commencing, whereas a design and build approach results in the risks being identified as the project is constructed with the associated cost uncertainty;
- Provides realistic project outputs and buildability to finalise the project scope prior to approval of the FBC whereas a design and build approach, the buildability and scope is built up throughout the process;
- Allows detailed design of the Victoria Square public realm works to be progressed throughout 2020 and Engie Urban Energy Ltd can, subject to successful completion of the negotiations and award of contract, undertake these works in January 2021 to realise the economies of scale from one contractor working in the same area; and
- Allows time in the programme for the procurement process for the main works to be sufficiently detailed to ensure an accurate cost.

4.3 The procurement options for the recommended option are detailed in paragraph 7.4.

5 Consultation

5.1 A public consultation exercise was carried out between the 13th January and 21st February 2020. Full details including the Consultation Analysis report will be included in the FBC to Cabinet in November 2020.

5.2 Engagement has been undertaken with Ward Councillors and Retail and Colmore Business Improvement District (BID) representatives who support the revised delivery strategy for CCPR.

6 Risk Management

6.1 Additional risks have been identified as part of this revised financial appraisal that were not outlined in the OBC. These risks, along with the mitigation are outlined in Table 2.

Table 2: Risks & Mitigations

Risk	Mitigation
The impact of Covid-19 on contractors and delivery timescales	The ECI will help understand the current impact on contractors and this will be taken into account when developing the phasing plan for construction works with the detailed design consultant
The implementation of the Clean Air Zone (CAZ) has been delayed due to the impact of the Covid-19 pandemic, which may result in funding shortfalls	The use of corporate resources to mitigate this risk was approved by Cabinet as part of the OBC in October 2019 and is included within the 2020/21+ Capital Budget approved by Cabinet in February 2020

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 In addition to the alignment with the Council's priorities, plans and strategies identified within the OBC the Council has published its Draft Birmingham Transport Plan (BTP) and its Emergency Birmingham Transport Plan (EBTP) in light of Covid-19. The short, medium and longer term measures set out in the EBTP of relevance to the City Centre Public Realm scheme include maximising improvements to walking and cycling and ensuring public spaces are safe and accessible for everyone. The scheme will support the vision and objectives set out in BTP and EBTP and support the delivery of further walking and cycling improvements to support social distancing and Covid-19 recovery.

7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of the contracts for the detailed design, Victoria Square public realm works and the main works. Tenderers will be required to submit an action plan with their tender that will be evaluated in accordance with each procurement strategy and the action plan of the successful tenderers will be implemented and monitored during the contract period.

7.2 Legal Implications

- 7.2.1 The Council in carrying out transportation, highway and infrastructure related work will do so under the relevant primary legislation comprising the Town and Country Planning Act 1990; Highways Act 1980; Road Traffic Act 1974; Road Traffic Regulation Act 1984; Traffic Management Act 2004; Traffic Act 2000 and other related regulations, instructions, directives, and general guidance.
- 7.2.2 Under Section 1 of the Localism Act 2011, the Council has the power to enter into the arrangements set out in this report, which are within the remit and limits of the general power of competence Section 2 and 4 of the Localism Act 2011.
- 7.2.3 The information in Exempt Appendix A is commercially sensitive with regard to the confidential market information which would impact on the future commercial negotiations – Exempt information 12A of the Local Government Act 1972 (as amended) - 3. Information relating to the financial business affairs of any particular person (including the council). The Exempt Appendix is considered to be in the public interest as it contains commercially sensitive information of a financial or business nature, which if disclosed to the public could be prejudicial to a named person, individual or company (including the council).

7.3 Financial Implications

Capital Costs

- 7.3.1 The estimated total capital cost of the City Centre Public Realm scheme outlined in the OBC approved by Cabinet on the 29th October 2019 was £25.478m and this remains the same.
- 7.3.2 The OBC approved costs to take the scheme to completion of the FBC of £0.944m, funded from the £5.000m TCF allocation accepted by Cabinet as part of the same report. The revised delivery strategy aims to develop a comprehensive FBC, with further work required to define the final project scope and provide accurate capital and revenue cost estimates including any additional costs that may arise from the Covid-19 pandemic and subsequent changes in working practices for contractors. The impact of business disruption and potential claims as a result of the changes to the delivery programme will be also fully considered. Any additional capital or revenue implications will be identified and reported in the FBC. Under the revised delivery strategy work to deliver the FBC will involve undertaking detailed

design and ECI, and this report seeks approval to bring forward fees of £0.758m from the post-contract fees to support this development. These costs will be funded from the £5.000m TCF allocation, accepted by Cabinet as part of the OBC approval.

- 7.3.3 The revised forecast financial appraisal, in Table 3 below, outlines the re-allocated finances required to undertake ECI and detailed design along with professional fees. The detailed breakdown of revised capital costs is shown in Exempt Appendix A.

Table 3: OBC vs Revised Finances

	As per Approved OBC			As per Revised Financial Appraisal			Diff
	2019/20	2020/21	Total	2019/20	2020/21	Total	
	£m	£m	£m	£m	£m	£m	
Internal Fees	0.151	0.000	0.151	0.151	0.208	0.359	0.208
External Fees	0.293	0.000	0.293	0.293	0.550	0.843	0.550
Surveys	0.400	0.100	0.500	0.400	0.100	0.500	0.000
TOTAL	0.844	0.100	0.944	0.844	0.858	1.702	0.758

- 7.3.4 The project team has undertaken work to reconfirm with the relevant funding bodies eligible uses and expenditure timescales for the Transforming Cities Fund (TCF) and Commonwealth Games (CWG) allocations. This has resulted in the funding streams being reprofiled from the original assumptions in the OBC. In addition, the implementation of the (CAZ) has been delayed due to the impact of the Covid-19 pandemic. Early indications are however that despite this delay, the total value of the funding from the CAZ can still be provided as profiled in the OBC. A draft bid for £5.000m funding from the Commonwealth Games Public Realm budget was submitted to the CWG Capital Board in March 2020.

- 7.3.5 The recommendations approved by Cabinet within the OBC in October 2019 included the use of corporate resources up to a total value of £20.478m in the event that the funding sources identified above were not approved or fell short of the required values and noted that, in the event of additional funding being subsequently confirmed, that this would be used to repay corporate funding. The use of corporate resources was subsequently included and approved as part of the Council 2020/21+ Capital Programme in February 2020. This approach remains the same. In addition, descoping will be considered as part of the development of the FBC in order to contain the costs with the available funding envelope if required

- 7.3.6 The FBC for the wider scheme scheduled for submission to Cabinet in November 2020 will detail and seek approval to the final scheme scope, costs and associated funding sources.

Revenue Implications

- 7.3.7 There are no changes to the revenue implications identified within the OBC in October 2019 at this stage. Full details of the revenue cost implications and funding sources will be included for approval within the FBC.
- 7.3.8 The extent of any proposed use of corporate resources to mitigate capital funding shortfalls, (as detailed in 7.3.5 above), which are resourced through prudential borrowing and the associated revenue costs and funding sources will be included for approval within the FBC to be submitted to Cabinet in November 2020.

7.4 Procurement Implications (if required)

- 7.4.1 The procurement implications for the three elements to deliver the project are detailed in the following paragraphs.

7.4.1.1 Technical Professional Services Procurement Options

The original solution for a design and build contract required the provision of an outline design to inform the procurement process. A contract was awarded to Atkins Ltd for this service using the Council's West Midlands Transportation Professional Services Framework Agreement. It is not permissible to extend the scope of this contract to include the detailed design and therefore there is a requirement for a procurement process to be undertaken.

The following procurement options were considered for the provision of technical and professional services to support the project, including the production of the detailed design:

- To carry out an open tender process – this option was discounted on the basis that using a collaborative framework agreement has demonstrated a more efficient route to market.
- To use a collaborative framework agreement – there are a number of collaborative framework agreements in place that cover the services required. After an investigation of the detail of the framework agreements, it is recommended that the proposed route is to direct award a contract in accordance with the provisions of the CCS Project Management and Design Services Framework Agreement. The details of the detailed scope, specification and costs are in the process of being finalised and the delegated award of contract will be subject to the costs being within the approved budget envelope. The initial proposals indicate that the current concept design and liability implications will be accepted to protect the Council and negate additional or

unnecessary expenditure. In the event that agreement cannot be reached for a direct award, a further competitive exercise using the framework agreement will be undertaken.

7.4.1.2 Victoria Square Public Realm Works

Cabinet approved entering into single contractor negotiations with Engie Urban Energy Ltd to carry out the public realm works in Victoria Square in the Planned Procurement Activities Report dated 11th February 2020.

7.4.1.3 Main Works

The procurement strategy for the main works will be detailed in the Full Business Case due to be submitted to Cabinet in November 2020.

7.5 Human Resources Implications (if required)

7.5.1 There are no changes to the Human Resource implications at this stage from the OBC.

7.6 Public Sector Equality Duty

7.6.1 There are no changes to the Equality Analysis (EA) carried out for the City Centre Public Realm project at the OBC stage in October 2019 (EQUA285) and attached in Appendix B. Due consideration has been given to the October 2019 EA which discloses that this project is not expected to negatively impact upon protected characteristics and that a further EA is not required for this report recommendations. An updated EA including outcomes from the public consultation will be presented alongside the FBC in November 2020.

8 Appendices

8.1 Exempt Appendix A

8.2 Appendix B – Equality Analysis (EQUA285).

9 Background Documents

9.1 City Centre Public Realm Revitalisation Outline Business Case Report to Cabinet 29th October 2019

9.2 Transportation and Highways Capital Programme 2020/21 to 2025/26 Annual Programme Update Report to Cabinet 11th February 2020.

9.3 Planned Procurement Activity (March 2020 to May 2020) Report to Cabinet on 11th February 2020.

9.4 Draft Birmingham Transport Plan 2020

9.5 Emergency Birmingham Transport Plan 2020