

Birmingham City Council

Report to Cabinet

10 November 2020



Subject: A457 Dudley Road Improvement Revised Scheme
Outline Business Case

Report of: Acting Director, Inclusive Growth

Relevant Cabinet Member: Councillor Waseem Zaffar – Transport and Environment
Councillor Tristan Chatfield – Finance and Resources

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

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Soho & Jewellery Quarter, Ladywood and North Edgbaston		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007940/2020		
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
<p>If relevant, provide exempt information paragraph number or reason if confidential:</p> <p>Exempt information paragraph 3. Information relating to the financial or business affairs of any particular person (including the Council).</p> <p>Exempt Appendix E – contains confidential market information which could impact on the future commercial negotiations.</p>		

1 Executive Summary

- 1.1 This report seeks approval to the revised Dudley Road Outline Business Case (OBC) and the recommended option, at total estimated capital cost of £29.935m, as a replacement for the preferred option approved by Cabinet in the Project Definition Document (PDD) for the Dudley Road Improvement Scheme on 26th June 2018, at a total estimated capital cost of £29.464m.

- 1.2 The Revised scheme is split into 3 elements:
- Developing a shelf ready scheme (including previous years expenditure) - £6.494m. A Full Business Case (FBC) will be taken to the GBSELP in March 2021.
 - Delivery of the Western Road Junction as Phase 1 Advance Works - £3.405m – subject to agreement between the City Council and the Soho Loop Developer. An FBC will be taken to Cabinet in February 2021.
 - Delivery of the Main scheme - £20.036m. An FBC will be taken to Cabinet March 2021.
- 1.3 The report notes that to date £6.494m of funding has been confirmed, including the £5.043m LGF detailed in 1.8 below and that progression of Western Road Junction Phase 1 Advance Works at a cost of £3.405m and the Main Scheme at a cost of £20.036m will be subject to approval of separate FBCs and identification and approval of additional resources to address the funding gap.
- 1.4 The original PDD in June 2018 included approval to City Council Prudential Borrowing (PB) of £7.044m. The estimated City Council PB for the revised scheme has reduced to £5.533m (including £1.024m already incurred for development). Approvals for the continued use of PB for the revised scheme will be sought through the subsequent FBCs. The report also notes that the West Midlands Combined Authority have submitted a £5.000m bid to the Housing Infrastructure Fund (HIF) for funding to support the scheme. A decision is expected in spring 2021. Where possible any funding received will be first used to reduce City Council PB.
- 1.5 The key benefits of the original scheme remain unchanged under the revised scheme, supporting and protecting the city's growth objectives within the Greater Icknield area, in terms of enabling access to key development sites which will bring forward approximately 3,000 new homes along with other local facilities and employment opportunities. It is part of a wider growth corridor, and along with development sites in Sandwell, there is potential to deliver over 5,000 homes in the Greater Icknield and Smethwick areas. The scheme also reduces traffic congestion ensuring that traffic is moving efficiently along the corridor which is also a blue route for the emergency services.
- 1.6 In addition, the revised scheme provides improvements for public transport, pedestrians and cyclists to align with the Emergency Transport Plan and Active Travel Plan introduced following Covid-19 and aspires towards the longer-term priorities of the Council in terms of sustainable transport and working towards net zero carbon by 2030.
- 1.7 In light of the unexpected outbreak of Covid-19, delivery of the original scheme was delayed and together with the approval of the associated Emergency Transport Plan (ETP) and guidance from central government, a decision was

made to undertake a review of the original scheme against the Council's emerging priorities. Following discussions with the DfT a revised scheme was agreed however key milestones for the submission of the Major Scheme Business Case cannot now be achieved.

- 1.8 There has been ongoing dialogue with the DfT who remain supportive of a revised scheme and they agreed to the transfer of £5.043m of funding ("the LEP funding") to the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) to facilitate development of the revised scheme to a "shelf ready" state including submission of a GBSLEP FBC in March 2021, subject to an initial revised OBC submission. The OBC was submitted to the GBSLEP on 7th October 2020 and approved by the GBSLEP Project Board. The Council is now awaiting the formal funding offer and Funding Agreement and this report seeks to delegate authority to accept the £5.043m LGF and to enter into the associated Funding Agreement.
- 1.9 In the unlikely event the GBSLEP do not approve the subsequent FBC or the scheme does not proceed to construction, the GBSLEP reserves the right to seek reimbursement from the City Council of any payments made in respect of the grant advance. Funding of any subsequent claw back of grant will have to be identified from within existing sources (including receipts from directly related land disposals). The GBSLEP continue to support the project and the risk of the project not proceeding in line with the required outputs is considered low. Further information is provided in 7.3.10 below.
- 1.10 The Western Road Junction was included to an extent as part of the original Dudley Road Improvement PDD. Within the revised scheme the junction will facilitate access to the Soho Loop development site and bring forward the wider junction improvements of the proposed scheme. There is an opportunity to bring forward the scheme as a Phase 1 Advanced Works which will enable development occupation, avoid abortive work and save associated costs of delivery. The total estimated capital cost of the proposal is £3.405m and progression will be subject to a Section 278 of the Highways Act 1980 agreement with the Soho Loop developers and a developer's contribution estimated to be £2.000m. Additional City Council funding will be required to cover the difference between the developer's scheme and the wider revised scheme, estimated to be £1.405m. Should this option be pursued as an earlier phase then the delivery can be undertaken using the existing design and works contract approved by the Cabinet dated 26th June 2018. Progression of the scheme will be subject to a separate FBC, the Section 278 agreement, a developer's contribution and identification and approval of the City Council contribution, currently proposed to be funded from PB in line with the original scheme.
- 1.11 Members are also asked to give consideration to withdrawal of the existing CPO made by the Council on the 4th November 2019 and the making of a fresh CPO in principle should it be the case that legal technicalities no longer allow for the existing CPO to continue. The original scheme was the subject of a CPO to acquire the necessary land to implement the scheme and a public inquiry into

objections is being held in abeyance. However, given the changes set out in the revised scheme, discussions are progressing with the Department for Transport (DfT) as to whether the acquisition of additional land required for the revised scheme means that a completely fresh CPO is required. Members will be further updated on this point verbally at the Cabinet meeting on 10th November 2020.

- 1.12 In order to provide the above key benefits, the revised scheme will require the progression of an agreement with the Canal and River Trust for a deed of indemnity, to enable widening over the Lee Bridge. This report seeks authority to progress the agreement with the Canal and River Trust, noting that a full risk assessment will be undertaken, with details and approvals being included within the Main Scheme FBC. Further information is provided in Appendix H.

2 Recommendations

- 2.1 Approves the Outline Business Case (OBC) for the A457 Revised Dudley Road Improvement Scheme at a total estimated capital cost of £29.935m, as detailed in Appendix A and shown on the scheme plan in Appendix D, noting that this will replace the preferred option approved by Cabinet in the Project Definition Document (PDD) for the Dudley Road Improvement Scheme on 26th June 2018, at a total estimated capital cost of £29.464m.
- 2.2 Notes the Revised scheme is split into 3 elements:
- Development of Shelf Ready Scheme (including previous years expenditure) - £6.494m;
 - Delivery of the Western Road Junction as Phase 1 Advanced Works - £3.405m – subject to agreement between the City Council and the Soho Loop Developer;
 - Delivery of the Main Scheme - £20.036m.
- 2.3 Authorises the Assistant Director Transport and Connectivity to proceed with the public consultation for the revised scheme.
- 2.4 Notes that to date £6.494m of funding has been confirmed, £5.043m Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Local Growth Fund (LGF) subject to acceptance, £0.500m DfT, £0.942m Council Prudential Borrowing and £0.009m Integrated Transport Block approved through the Dudley Road Improvement Scheme Cabinet report on 26th June 2018. Progression of Western Road Junction Phase 1 Advance Works at a cost of £3.405m and the Main Scheme at a cost of £20.036m will be subject to approval of separate Full Business Cases (FBCs) and identification and approval of additional resources to address the funding gap.
- 2.5 Delegates authority to Assistant Director, Transport and Connectivity in conjunction with the Interim Chief Finance Officer to submit bids for additional resources as identified to address the current estimated funding gap of £23.441m

(£3.405m relating to Weston Road Junction Phase 1 Advanced Works and £20.036m for the Main Scheme).

- 2.6 Delegates authority to the Assistant Director, Transport and Connectivity to accept £5.043m LGF from the GBSLEP and to enter into the associated Funding Agreement to facilitate development and land acquisition, subject to the final terms and conditions being acceptable.
- 2.7 Subject to formal acceptance of grant funding and the associated Funding Agreement as detailed in 2.6 above, approves the release of £5.043m of GBSLEP funding to cover estimated costs detailed below to progress the scheme to the required stage, in line with Funding Agreement:
 - 2.5.1 Development, demolition, remediation, further investigative surveys, and advanced utilities work as appropriate, (£2.026m);
 - 2.5.2 Acquisition (and disposal if required) of interest to facilitate the development of the scheme, (£3.017m).
- 2.8 Authorises the Assistant Director, Transport and Connectivity to progress the development of detailed design up to the value detailed in Exempt Appendix E, noting that this will be delivered under the existing design contract awarded through the Council's Highways and Infrastructure Works Framework Contract as part of the original scheme approvals.
- 2.9 Notes that the Western Road Junction was included within the original PDD and should the anticipated opportunity arise to bring forward the scheme as Phase 1 Advance Works, (subject to securing a Developer Contribution and approval of the FBC) the award of the design and works contract is covered by the Cabinet approval dated 26th June 2018.
- 2.10 Delegates authority to the Assistant Director Property to negotiate and complete the acquisition (and disposal if required) of any interest to facilitate the building of the improved highway including easements and drainage in the adjoining land connected to the revised scheme, in advance of any Compulsory Purchase Order and to agree costs and compensation, subject to costs being within available funding.
- 2.11 Authorises the City Solicitor to complete such acquisitions and any necessary related agreements, disposals or easements and seal any documents in connection therewith. To pay statutory home loss, basic loss and negotiate disturbance compensation to all qualifying owners and tenants.
- 2.12 In the event that a new Side Roads Order and Compulsory Purchase Order (CPO) is required for the entirety of the revised scheme, delegates authority to the City Solicitor to withdraw the Side Roads Order made on the 12th September 2019 and the existing CPO made on 4th November 2019 and approve the making of a new Sides Roads Order under Sections 14 and 125 of the Highway Act 1980 and a new Compulsory Purchase Order under Sections 239, 240 and 250 of the Highways Act 1980, in principle, in respect of the land edged black shown on

drawing CA_02715_S1_025 RevA in Appendix F to support negotiations to acquire by agreement and allow implementation of the revised scheme.

- 2.13 If there is no need to withdraw the existing CPO, approve the making of a new CPO in principle under Sections 239, 240 and 250 of the Highways Act 1989 in respect of the additional land required for the revised scheme shown on drawings in Appendix F and any related Side Road Order to support negotiations to acquire by agreement and allow implementation of the revised scheme.
- 2.14 In relation to 2.12 and 2.13, notes that the main scheme FBC will seek full authority to the making of a CPO and any related Side Road Orders, if voluntary negotiations to acquire the sites are not successful.
- 2.15 Approves the strategy and commencement of the procurement activities for the demolition and remediation of the MOT garage and various adjacent retail properties as detailed in Appendix G subject to the successful completion of the Voluntary Land Purchases.
- 2.16 Delegates authority to award the contract for demolition and remediation of the MOT garage and various adjacent retail properties to the Acting Director, Inclusive Growth, the Assistant Director, Development and Commercial (or their delegate), the Interim Chief Finance Officer (or their delegate) and the Acting City Solicitor (or their delegate) in order to progress the scheme.
- 2.17 Authorises the City Solicitor to progress an agreement with the Canal and River Trust for a deed of indemnity to enable widening over the Lee Bridge to be implemented as part of the revised scheme and notes that authority to enter into the Deed of Indemnity, once a full risk assessment of liability, responsibility and costs has been undertaken, will be sought within the main scheme FBC. Further details are provided in Appendix H.
- 2.18 Authorises the City Solicitor to advertise the loss of Public Open Space within the area shown edged black on the plan at Appendix F in accordance with Section 122(2A) of the Local Government Act 1972.
- 2.19 Authorises the City Solicitor (or their delegate) to negotiate, execute, seal, take any necessary action, and complete all necessary documentation including land referencing to give effect to the above recommendations.

3 Background

- 3.1 The A457 corridor is approximately 2km long from Ladywood Middleway/Spring Hill junction on the ring road to Cape Hill near the boundary with Sandwell Metropolitan Borough Council (MBC). The A457 forms part of Birmingham's Strategic Highway Network and provides a key arterial route from the Black Country into central Birmingham. The road is heavily used by both local and through traffic and forms part of the emergency vehicle route to the M5 Motorway. The section of the Dudley Road corridor proposed for improvement is from Spring Hill junction to Sandwell boundary. The poor standard and inefficient operation of this section of the Dudley Road, together with associated environmental

deterioration and poor accessibility for users, makes the corridor an unattractive route to and from the city particularly at peak times. Delays as a result of congestion significantly add to business costs and discourage businesses from investing and locating in this area, as well as adversely impacting on access to employment opportunities for local residents.

3.2 The Project Definition Document (PDD) for the Dudley Road Improvement Scheme was approved by Cabinet on 26th June 2018 with the following recommendations:

- Approved to progress the project to detailed design, consultation, and Full Business Case.
- Delegated authority to the Assistant Director of Transport and Connectivity to procure, appoint and place orders with a design and build contractor to carry out Early Contractor Involvement, design development, construction planning and detailed design.
- Authorised the submission of the funding bid to the DfT's Local Major Transport Portfolio Scheme.
- Approved the making of a Compulsory Purchase Order (CPO) and a Side Roads Order (SRO) and to negotiate the acquisition of land/property in advance of confirmation of the orders.
- Authorised the City Solicitor to advertise the loss of Public Open Space.

3.3 Preparation of the Major Scheme Business Case to the DfT has been progressing since 2018 and prepared in accordance with the Department for Transport's, 'The Transport Business Case' and WebTAG (Web-based Transport Analysis Guidance), which provides information on the role of transport modelling and appraisal, and how the transport appraisal process supports the development of investment decisions to support the business case. The main components of this work being development of options, traffic modelling and preparation of the business case.

3.4 In light of the unexpected outbreak of Covid-19, delivery of the scheme was delayed. Furthermore, as a result of the need to introduce social distancing measures to combat the spread of the disease, the approval of the associated Emergency Transport Plan (ETP) and guidance from central government, a decision was made to undertake a review of the original scheme. A study to assess the feasibility of making significant changes to the scheme in-line with the ETP has been undertaken and following discussions with the DfT a revised scheme has been agreed.

3.5 The revised Dudley Road Improvement Scheme is well developed and provides wider footways and new segregated cycle paths to cater for non-motorised users and the provision of bus lanes along the corridor accompanying the carriageway widening works to support increased traffic capacity, (further detail of the

revisions can be seen in 3.14 below, Appendix A and scheme plan in Appendix D).

- 3.6 As part of further consultation the revised Dudley Road Improvement Scheme was presented to the Leader of the Council, Ward Councillors, the Cabinet Member for Transport and Environment and the NHS on the 6th July 2020, where all were in agreement that the original scheme be abandoned and the revised scheme be progressed (see section 5 for details).
- 3.7 Unfortunately, as the revised scheme will not be deliverable in line with the original timescales, the retained funding for the scheme will be released back to the GBSLEP to fund alternative schemes within their programme. However, it was agreed that a tranche of the original funding be allocated to the scheme to fund the development of the Revised Dudley Road Improvement Scheme in relation to land acquisitions and detailed design to deliver a “shelf ready” scheme, subject to the submission of a revised OBC to the GBSLEP. The OBC was submitted to the GBSLEP on 7th October 2020 and approved by the GBSLEP Project Board. The Council is now awaiting the formal funding offer and Funding Agreement and this report seeks to delegate authority to the Assistant Director, Transport and Connectivity to accept the £5.043m LGF and to enter into the associated Funding Agreement, subject to the final terms and conditions being acceptable.
- 3.8 The original scheme cost was £29.464m and the revised scheme cost are estimated at £29.935m with the main changes being:
- Inclusion of bus lanes;
 - Segregated cycling on the north side of the corridor and;
 - An extension of the scheme to the Sandwell boundary.
- 3.9 The procurement process to secure a design and build contractor for the original scheme was carried out in 2018/19. A contractor was appointed on 5 November 2019 for the detailed design and construction with an option to terminate the contract at the end of the detailed design phase. Following the outbreak of Covid-19 it has been agreed by the Cabinet Member for Transport and Environment, councillors and stakeholders to revise the scheme in order to align with the vision principles and objectives of the Emergency Transport Plan and Active Travel Plan. Further detail of the procurement implications can be seen in section 7.4 below.
- 3.10 The Side Road Order (SRO) to deal with side roads and private means of access for people/businesses affected by the proposals was made on 12th September 2019 and the Compulsory Purchase Order (CPO) for the acquisition of private land and property interests was made on 4th November 2019 with both being submitted to the Secretary of State for Transport and a planned Public Inquiry was scheduled on the 12th and 13th May 2020. Due to Covid19 this has been postponed. Under the new scheme the revised proposals to provide new

segregated cycleways to maintain social distancing and a new Bus Lane, additional land will be required. As a result, a new SRO and CPO will be required in respect of any new additional land required. In addition, due to legal technicalities associated with the variations to the existing side roads a new CPO and Side Roads Order may be required for the entirety of the revised scheme. Discussion are progressing on this point with the DfT and a verbal update will be given at Cabinet on 10th November 2020.

- 3.11 Public Open Space notices were advertised for the loss of public open space on 15th November 2019. No objections were received within the statutory objection period and the appropriations from Neighbourhoods Directorate to Inclusive Growth Directorate for Transportation use under the Highways Act 1980 was ready for progression. Following the outbreak of Covid-19 and the revised proposals for a new Public Open Space will be advertised.
- 3.12 The existing CPO does not meet the requirements of the revised scheme as additional land is required; in particular, land required from the Lidl store, the Builders Merchant adjacent to the Soho Loop Development to facilitate the new foot bridge and additional land required from the hospital to facilitate continuity of provision for segregated cycling. Therefore, the current order will be held in abeyance to allow for negotiated agreements and if required a new CPO/SRO (Side Roads Order) will be advertised.
- 3.13 In order to have a shelf ready scheme the Council needs to continue to progress the land acquisitions. However, if current negotiations are unsuccessful a new CPO will be required as detailed in 3.12.
- 3.14 Should a new CPO be sought, a key DfT requirement is to ensure that an unhindered scheme is deliverable. In order to meet this requirement, it is necessary to obtain approval in principle (AIP) from the three asset owners of the existing Lee Bridge and Spring Hill structures, namely Birmingham City Council, the Canal and River Trust and Network Rail. The 'As-Built' bridge records were found to be inaccurate, and this uncertainty necessitated further intrusive investigation to be undertaken in order to progress the AIPs. Of the three AIP agreements, it has been possible to programme two for acceptance prior to the CPO, (Birmingham City Council and the Canal and River Trust), however the third AIP (Network Rail) will not be obtained until late 2020.

The Greater Icknield Masterplan (2016)

- 3.15 The PDD approved in 2018 has set out the interface with the Greater Icknield Masterplan, as a consequence of the revised scheme the need for highway improvements along Dudley Road to enable development and accommodate wider growth in the area remains. This will be particularly relevant for the City Hospital and Soho Loop development sites which have the potential to deliver over 1,000 new homes. The highway improvements also support the vibrancy and vitality of the Dudley Road local centre.

- 3.16 The scheme objectives are to enable access to key development sites by:
- Providing increased capacity for the road network;
 - Improving accessibility into Birmingham city centre;
 - Improving journey time reliability (including public transport);
 - Providing safer infrastructure for all road users;
 - Providing facilities for cyclists; and
 - Reducing congestion that acts as a major barrier to growth both in Birmingham and throughout the West Midlands.
- 3.17 The proposals are shown on the scheme plan in Appendix D and comprise the following:
- Deliver segregated/shared footway and cycleway on the north side of the corridor to provide improved facilities for pedestrians and cyclists, together with links to the south side of the corridor; and to provide safer infrastructure for all road users;
 - Provide 3 enhanced junctions and 1 new junction to significantly improve network efficiency and reduce congestion as part of the corridor designation;
 - Provide a continuous bus lane along the corridor;
 - Upgrading 13 bus shelters along Dudley Road corridor;
 - Provide a new footpath and cycle track on the frontage of Birmingham City Hospital's A&E Centre to retain 15 trees;
 - Provide a new footpath and cycle track on the frontage of Birmingham City Hospital's Treatment Centre;
 - Provide a new signalised access for key development sites to support regeneration initiatives through improved accessibility to the existing developments and;
 - Contribute to the retention of existing business in the area as well as encouraging new investment;
 - Closure of Northbrook Street to enable widening over Lee Bridge;
 - Provision of a new footbridge over Spring Hill Canal.
- 3.18 The need to construct the works in a safe manner for both road users and construction workers will result in periods of traffic disruption. The project team will work with key stakeholders and the contractor to minimise traffic disruption during construction by implementing the following measures:
- A phased construction approach to optimise the available road space at key times to help keep traffic moving;

- The Council's Traffic Management Protocol process will be applied to manage approvals for the contractor's temporary traffic management proposals.

3.19 Next Steps:

- Complete Public Consultation mid November 2020;
- Complete Detail Design March 2021;
- Progress all land acquisitions by March 2021;
- Submit Western Rd Junction Phase 1 Advanced Works FBC in February 2021, should the option to deliver be pursued;
- Submit GBSLEP FBC March 2021;
- Submit Council Main Scheme FBC March 2021.

4 Options Considered and Recommended Proposal

4.1 An options appraisal was undertaken in 2017 for the original proposal to identify a scheme within the available budget that meets the key objectives. As approved by Cabinet on 26th June 2018 Option 6 (Original Scheme) was taken forward to progress to delivery stage.

4.2 The options appraisal for the revised scheme considered four options, Option 1 the original scheme(do minimum + segregated cycling), Option 2 the revised scheme (do maximum), Option 3 deliver the Western Road Junction in line with the revised scheme (do minimum) and Option 4 to cease the scheme (do nothing), Option 2 is being taken forward as it offered, on balance, the best value for money in meeting the requirements and agreed by the Leader of the Council, Cabinet Member for Transport and Environment, Ward Councillors and stakeholders as it aligns with the Council's long term objectives. Further details are provided in Appendix A.

5 Consultation

5.1 Ward Councillors for the affected areas have been consulted on the revised proposals and all contacted have responded and are in favour of the revised scheme.

- Engagement has taken place with the GBSLEP Programme Delivery Director who is supportive of the revised scheme. The OBC was approved by GBSLEP Project Board on 7 October. There has been and continued to be ongoing dialogue with GBSLEP on the development and progression of the project. The GBSLEP continue to support the project and the risk of the project not proceeding is considered low.
- Engagement with the NHS who are supportive of the revised scheme.

- 5.2 Full and detailed formal Public Consultation will be undertaken in late 2020 and the findings reported in the FBC.

6 Risk Management

6.1 Key Risks (The key risks and mitigation measures are detailed in Appendix B):

- Impact of coronavirus – this is a significant / ongoing risk and has resulted in the original scheme being reviewed and a revised scheme being developed. The Public Inquiry for the CPO has been postponed and as a consequence this may cause a delay in scheme delivery and an associated increase in project costs, causing supply chain risk including material and resource shortages and delayed approval of the FBC. This will be mitigated by identifying the extent of any delivery impacts across the scheme to gain an understanding of where delivery timescales can be reviewed/re-prioritised, in order to address any delays to procedures. Costs will be continually reviewed and provided in the FBC,
- However, conversely this risk will result in an opportunity to finalise agreements for land acquisition with the Statutory Objectors, which may result in the Public Inquiry not being required, which in turn could accelerate the programme.
- Delay in Land Acquisition/CPO causing further slippage to the programme. Property Services are in negotiations with landowners via legal services in the hope of reaching an agreement for voluntary acquisition. The revised scheme has resulted in the current CPO being reviewed as additional land is required for the revised scheme.
- The existing Lee Canal Bridge is approximately 180 years old and requires assessment and monitoring with regards to implementation of the scheme. There is a risk that the highway works will increase the load on the structure which may result in structural damage, CRT have requested a deed of indemnity from the City to cover mitigation. The risk will be reduced by monitoring the movement on the bridge prior to the construction phase, this will help to identify if there is an existing issue and where the liability lies. A full risk assessment will be undertaken to identify any future liability, responsibility and costs and will be detailed in the FBC relating to the main scheme planned for approval by Cabinet in Spring 2021. Further details are provided in Appendix H.

- 6.2 Risks will be managed through bi-weekly progress meetings between the City Council and all stakeholders including the contractor.

6.3 Key Issues:

- Birmingham City Hospital were due to have relocated by 2018. However, it is now anticipated that the relocation will not have taken place by spring/summer 2022, which will result in a delay to the delivery of the final

section of the project that requires an area of operational hospital land. The works have been reprogrammed to take this into account.

7 Compliance Issues:

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

7.1.1 The proposals set out in this report will support the delivery of the Council Plan 2018-2022 (as updated in 2019), specifically:

- **Outcome 1 - An entrepreneurial city to learn, work and invest in,** particularly *'We will develop our transport infrastructure, keeping the city moving through walking, cycling and improved public transport'* and *'We will create opportunities for local people to develop skills and make the best of economic growth'*.
- **Outcome 4 – Birmingham is a great, clean and green city to live in,** particularly *'We will improve the environment and tackle air pollution'*.
- **Outcome 6 - Birmingham is a city that takes a leading role in tackling climate change,** particularly *'We will continue to deliver, report and positively promote the council's extensive climate change and carbon reduction activity, with additional initiatives undertaken in line with leading national and peer practice'*.

7.1.2 The scheme supports the Additional Climate Change Commitments including the aspiration for the City Council to be net zero carbon by 2030, as agreed by Cabinet on 30th July 2019, following the declaration of a Climate Change Emergency passed by full City Council on 11th June 2019.

7.1.3 The project also aligns with the Draft Birmingham Transport Plan, Birmingham Development Plan, Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Strategy for Growth, Strategic Economic Plan, and the Movement for Growth 2026 Delivery Plan for Transport, the Birmingham Connected Transport Strategy and the Clean Air Strategy for the City of Birmingham - Draft

7.1.4 Birmingham Business Charter for Social Responsibility (BBC4SR):

Demolition and Remediation

The value of the proposed contract is below the threshold for the BBC4SR. However, the contract will include the requirement for the payment of the Real Living Wage.

7.2 Legal Implications

7.2.1 The City Council carries out transportation, highway and infrastructure related work under the relevant primary legislation comprising the Town and Country Planning Act 1990, Highways Act 1980, Road Traffic Regulation

Act 1984, Traffic Management Act 2004, Transport Act 2000, Countryside and Rights of Way Act 2000, and other related regulations, instructions, directives and general guidance. Consideration has also been given to Ministry of Housing, Communities and Local Government guidance dated February 2018 (updated July 2019) on Compulsory Purchase and also Department for Transport Circulars 1/97 and 2/97

7.2.2 The City Council's general power of competence is contained in Section 1 of the Localism Act 2011. Section 111 of the Local Government Act 1972 contains the City Council's ancillary financial and expenditure powers in relation to the discharge of its functions.

7.3 Financial Implications

Capital

7.3.1 The total estimated capital cost of the revised scheme is £29.935m. The following table summarises the expenditure profile and the associated funding:

Capital code: CA-02715	Prior Years	2019/20	2020/21	2021/22	2022 - Onwards	Total
	£000	£000	£000	£000	£000	£000
CAPITAL EXPENDITURE						
Capital Costs	567	966	4,961	3,405	20,036	29,935
Total Capital Expenditure	567	966	4,961	3,405	20,036	29,935
CAPITAL FUNDING:						
Department for Transport	500					500
Local Prudential Borrowing	58	966	-82	1,405	3,186	5,533
Local ITB	9					9
GBSLEP			5,043			5,043
Unidentified funding					16,850	16,850
Section 106/278 Contribution TBC				2,000		2,000
Total Capital Funding	567	966	4,961	3,405	20,036	29,935

7.3.2 The total estimated capital cost is an increase of £0.471m on the original scheme value of £29.464m approved in the Project Definition Document (PDD) by Cabinet on 26th June 2018. Details of the capital cost and funding for the original scheme vs the revised scheme and the movement is shown in the table below.

	Original Scheme	Revised Scheme	Movement
	£000	£000	£000
CAPITAL EXPENDITURE			
Capital Costs	29,464	29,935	471
Total Capital Expenditure	29,464	29,935	471
CAPITAL FUNDING:			
Department for Transport	22,411	500	(21,911)
Local Prudential Borrowing	7,044	5,533	(1,511)
Local ITB	9	9	0
GBSLEP	0	5,043	5,043
Unidentified funding	0	16,850	16,850
Section 106/278 Contribution TBC	0	2,000	2,000
Total Capital Funding	29,464	29,935	471

7.3.3 The approved PDD included City Council funding of £7.053m (£7.044m of Prudential Borrowing (PB) and £0.009m of Integrated Transport Block Funding (ITB)). The estimated City Council contribution required for the Revised scheme has reduced to £5.542m of which £5.533m will be PB and the balance of £0.009m ITB as per the original scheme.

7.3.4 The DfT provisionally allocated £22.411m to the original scheme, which was subject to the submission and approval of a Major Scheme Business Case. £0.500m was released to fund the development of the original scheme in previous years. Whilst the original scheme is no longer deliverable, the DfT continue to support the scheme and have passported a further £5.043m to the GBSLEP to develop the revised scheme. An OBC was submitted to the GBSLEP on 7th October 2020 and approved by the GBSLEP Project Board. The Council is now awaiting the formal funding offer and Funding Agreement and this report seeks to delegate authority to the Assistant Director, Transport and Connectivity to accept the £5.043m LGF and to enter into the associated Funding Agreement, subject to the final terms and conditions being acceptable.

7.3.5 The Revised scheme is split into the following 3 elements, (further information is provided in 7.3.6 to 7.3.9 below):

- Developing Shelf Ready Scheme (including previous years expenditure) - £6.494m;
- Delivery of the Western Road Junction as Phase 1 Advanced Works - £3.405m;
- Delivery of the Main Scheme - £20.036m.

- 7.3.6 Shelf Ready Scheme – Development. Expenditure already incurred in previous years of £1.533m was funded from DfT (£0.500m), PB (£1.024m) and ITB (£0.009m). The remaining estimated cost of developing the revised scheme to a “shelf ready” state in 2020/21 is estimated at £2.026m. This includes a repayment of PB £0.082m to reduce the overall total PB for this element of the scheme to £0.942m (£1.024m less £0.082m). This will be funded from the GBSLEP contribution of £5.043m.
- 7.3.7 Shelf Ready Scheme – Land Acquisition. As noted in paragraph 3.2, approval of the Project Definition Document by Cabinet on 26th June 2018 authorised the purchase of land in advance of and alongside the CPO process, currently estimated to cost £3.017m. This will be funded from the GBSLEP contribution of £5.043m.
- 7.3.8 Western Road Junction Phase 1 Advanced Works - The total estimated capital cost of the scheme is £3.405m. The option to deliver this element ahead of the main scheme will require identification of an estimated Sections 106/278 contribution from the Soho Loop development of £2.000m, with the remaining funding for the scheme being through a local contribution from the City Council of £1.405m, currently proposed to be funded from PB in line with the original scheme. Should the advanced scheme progress, the final costs and funding source will be confirmed in an FBC, anticipated to be brought forward for approval by Cabinet in February 2021.
- 7.3.9 Main Scheme - The total estimated capital cost of the scheme is £20.036m. Funding will need to be identified in order for the scheme to progress to full implementation, with current plans identifying £3.186m as funded from PB in line with the original scheme and £16.850m as unidentified. The DfT are supportive of the revised scheme and should funding become available through future funding rounds it is hoped that having developed a “shelf ready” scheme the Council will be in a good position to submit a successful bid. Should the scheme progress, the final costs and funding sources will be confirmed in an FBC, anticipated to be brought forward for approval by Cabinet in Spring 2021.
- 7.3.10 In the event the GBSELP FBC is not approved or the full scheme does not proceed to construction, the GBSLEP reserves the right (but is not obliged) to seek reimbursement from the City Council of any payments made in respect of the £5.043m LGF grant advance, to the extent that such funding has not been utilised to fund capital expenditure to support the scheme (including land assembly). Funding of any subsequent claw back of grant will have to be identified from within existing sources (including receipts from directly related land disposals). The GBSELP continue to support the project and the risk of the project not delivering against the key outputs, summarised below, by the end of March 2021 is deemed low.

GBSLEP Key Outputs:

- Submission of the GBSELP FBC;
- Completion of Detail Design;
- Completion of third party land acquisition required to facilitate delivery of the revised scheme via negotiation and where negotiation does not prevail then a future CPO will be sought;

In addition, once the scheme has secured funding to proceed to construction, any outputs and outcomes which will be realised as a result of the scheme, must be reported against the LGF in proportion to the amount of LGF funding to the total public sector funding.

- 7.3.11 It should be noted that the West Midlands Combined Authority have submitted a £5.000m bid to the Housing Infrastructure Fund (HIF) for funding to support the scheme. A decision is expected in spring 2021. If the funding is secured, it will be used to reduce the City Council PB requirement where possible in order to reduce financing costs.

Revenue

- 7.3.12 The revised scheme will both change and create assets that will form part of the highway upon completion of the project. As such they will need to be maintained within the overall highway maintenance programme. Whilst the previous PDD approved £0.018m per annum, the estimated net highway maintenance cost for the revised scheme has increased to £0.043m per annum as a result of increased material quantities required for the revised scheme and an increase in maintenance unit costs, a breakdown of this cost is included within Appendix A, section E1. This cost will be funded from the provision for highways maintenance held within Corporate Policy Contingency. The detailed design will be developed by the appointed design and build contractor with a view to minimising the future maintenance liability to the City Council.
- 7.3.13 The provision of a new footbridge adjacent to the existing Spring Hill bridge will result in additional revenue implications with an initial estimated value of approximately £250 per annum to cover the remaining life of the contract to 2035. This will be funded from the provision for highways maintenance held within Corporate Policy Contingency.
- 7.3.14 The revised scheme will require PB estimated at £5.533m (subject to approval), split between Scheme Development (£0.942m), Western Road Junction Phase 1 Advanced Works (£1.405m) and the Main Scheme (£3.186m) as shown in the table above. The cost of existing PB of £0.052m per annum and estimated additional future borrowing costs of £0.266m per annum associated with Western Road Junction Phase 1 Advanced Works and the Main Scheme will be funded from Bus Lane Enforcement net surplus income as set out in the Transportation and

Highways Capital Programme 2020/21 – 2025/26 Annual Programme Update report approved by Cabinet on 11th February 2020. The total potential cost of PB for the revised scheme of £0.318m per annum is within the borrowing limits for the original scheme which is included within the approved Capital Programme.

- 7.3.15 The Prudential Borrowing costs referred to above are based on current Public Works Loans Board (PWLB) interest rates. There is potential to access reduced rate PWLB borrowing, through the Concessionary Infrastructure Loan Rate, subject to meeting the required criteria. An application will be considered in line with the due process.
- 7.3.16 As detailed earlier in the report, the Canal and River's Trust have requested a deed of indemnity from the City to cover mitigation for highway works that may result in damage to the existing Lee Bridge structure. A full risk assessment will be undertaken to identify any future liability, responsibility and costs and will be detailed in the FBC relating to the main scheme planned for approval by Cabinet in Spring 2021.

7.4 Procurement Implications (if required)

The award of the contract for the detailed design and works was approved in the Cabinet Report 26th June 2018.

- 7.4.1 As a consequence of the revised scheme being progressed, there are two options available for the delivery, Option A to continue with approved strategy for the detailed design and construction of the advanced works for the Western Road junction, with further details of the procurement strategy for the delivery of the main scheme to be detailed in the FBC February 2021. Option B should the Western Road junction not proceed, the detailed design will be completed and the termination clause will be invoked. If Option B becomes the proposed route, a procurement process for the revised main scheme works would then be undertaken with the FBC seeking approval to the revised procurement strategy.
- 7.4.2 To support the development of the A457 Dudley Road Improvement Revised Scheme, there is a requirement for the demolition and remediation of the MOT garage and various adjacent retail properties. The procurement strategy is detailed in Appendix G.

7.5 Human Resources Implications (if required)

- 7.5.1 The management and delivery of the A457 Dudley Road Improvement Revised Scheme will be undertaken by officers within Transport and Connectivity supported by external consultants for professional services.

7.6 Public Sector Equality Duty

- 7.6.1 In January 2018 an analysis of the effects of equality was undertaken for the Dudley Road Improvements scheme, this was updated in September 2020 (Report ref EQUA561) and is attached as Appendix C to this report. It was concluded that there would be no adverse effect on protected groups and characteristics under the Equality Act 2010 and there is no requirement for a full assessment.

8 Appendices

8.1 List of Appendices accompanying this report:

Appendix A – Outline Business Case

Appendix B – Risk Management Schedule

Appendix C – Equality Analysis

Appendix D – Scheme Plan

Exempt Appendix E – Revised Design Cost Implications and Land Acquisition RAG Status.

Appendix F – Land Acquisition Plan

Appendix G - A457 Demolition Strategy

Appendix H – Technical Note Lee Bridge.

9 Background Documents

- 9.1 Report to Deputy Leader 10 January 2017 - Birmingham Development Plan adopted
- 9.2 Report to Cabinet 26 June 2018 Dudley Road Improvement – Project Definition Document
- 9.3 Report to Cabinet 14 May 2019 Dudley Road Improvement – Land Requirements
- 9.4 Report to Cabinet 11 February 2020 Transportation and Highways Capital Programme - 2020/21 - 2025/26 – Annual Programme Update