

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET
Report of:	DEPUTY CHIEF EXECUTIVE
Date of Decision:	17th November 2015
SUBJECT:	BIRMINGHAM CYCLE REVOLUTION PHASE 2 & 3: CANAL WORKS – FULL BUSINESS CASE
Key Decision: Yes	Relevant Forward Plan Ref: 000499/2015
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Members:	Councillor Tahir Ali – Development, Transport & the Economy Councillor Stewart Stacey – Commissioning, Contracting and Improvement
Relevant O&S Chairmen:	Councillor Victoria Quinn – Economy, Skills & Sustainability Councillor Waseen Zaffar – Corporate Resources
Wards affected:	Perry Barr, Tyburn, Sutton New Hall, Soho, Ladywood, Kings Norton, Brandwood, Billesley

1. Purpose of report:
1.1 To seek approval to the Full Business Case (FBC) for the third tranche of Birmingham Cycle Revolution (BCR) canal work schemes, for delivery in 2016, as outlined in Appendix A, at a total capital cost of £3.000m.
1.2 To authorise the making of grant awards to the Canal & River Trust (CRT) for them to deliver the works on behalf of the City Council.

2. Decision(s) recommended:
That Cabinet:
2.1 Approves the Full Business Case for the third tranche of Birmingham Cycle Revolution (BCR) Canal Works schemes, as shown in Appendix A, at an estimated total capital cost of £3.000m, funded by £1.950m from the BCR Phase 2 programme and – subject to Department for Transport (DfT) confirmation of on-going funding for BCR Phase 3 – by £1.050m from the Phase 3 programme.
2.2 Notes that the work funded through BCR Phase 3 will not be committed until DfT confirm on-going funding for that programme in 2016/17.
2.3 Approves the acceptance of £1.950m of grant funding through the Greater Birmingham & Solihull Local Enterprise Partnership Local Growth Fund (GBSLEP-LGF).
2.4 Authorises the Deputy Chief Executive to agree the conditions of grant aid with the Canal & River Trust, in accordance with the Third Sector Grant Funding Framework and Toolkit 2011.
2.5 Authorises the Deputy Chief Executive, subject to the implementation of a grant agreement, to make grants of up to £3.000m for works costs to the Canal & River Trust, in accordance with the Third Sector Grant Funding Framework and Toolkit 2011.
2.6 Authorises the Director of Legal and Democratic Services to negotiate, execute, seal and complete all necessary documentation to give effect to the above recommendations.

Lead Contact Officer(s):	Anne Shaw – Acting Assistant Director of Transport & Connectivity
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3. Consultation

3.1 Internal

- 3.1.1 The Cabinet Member for Sustainability has been consulted on the contents of this report. She is supportive of the Canal Works programme but asked that steps are taken to ensure that the towpaths are swept clear of loose material as soon as possible after the 'spray and chip' surfacing has been laid. This requirement will be included in the construction contracts for the works.
- 3.1.2 Ward Councillors, District Chairs, District Lead Officers and District Engineers within the areas covered by these schemes have been consulted by e-mail on the proposals, including one reminder e-mail sent to Councillors at the consultation closing date. Councillors Rice and Hartley (Ladywood), Leddy (Brandwood) and Barrie (Sutton New Hall) have provided positive responses, although Councillor Barrie also passed on residents' concerns over excessive cycle speeds and cyclists not giving way to pedestrians (see also Appendix A). The District Engineer for Perry Barr has expressed support for the improvements on the Tame Valley Canal.
- 3.1.3 Officers from City Finance and Legal & Democratic Services have been involved in the preparation of this report.

3.2 External

- 3.2.1 The canal works comprise works to the towpaths and some of the accesses on the canal network, which is owned and managed by the Canal and River Trust (CRT), formerly British Waterways. They have been involved throughout the development of the BCR programme and will deliver the works through their framework contractor under an agreement with the City Council. CRT consulted with canal users through one of their regular forums, a detailed response has been received from the local branch of Inland Waterways Association as outlined in Appendix A. The IWA are supportive of the improvements but asked for a number of specific issues to be taken into account in the design, as outlined in Appendix A.
- 3.2.2 Sandwell MBC and Solihull MBC have been informed of the proposals at the city boundary, and officers from both authorities have indicated support and it is understood that the two organisations are now seeking funding to extend the canal improvement works into their own areas.
- 3.2.3 Other organisations, including Cycling and Walking groups, have been consulted on the proposals and will continue to be consulted through the design and delivery process. Responses are outlined in Appendix A. Particular concerns have been expressed over the surfacing material and the need to ensure that the paths are swept properly. The construction contracts will include a requirement to sweep paths upon completion of the works and again after about one month once the material has had time to bed in.
- 3.2.4 The Access Committee for Birmingham, RNIB and Guide Dogs have been informed of the proposals. No responses or adverse comments have been received. In previous consultations, the Access Committee have asked for signing to indicate locations of canal accesses suitable for wheelchair users and this will be taken into account in the design of these schemes.
- 3.2.5 Local stakeholders and residents groups have been consulted through BeHeard. Thirteen responses were received from individuals. Ten fully supported the proposals, two partially supported them, and one did not support. Details are given in Appendix A.
- 3.2.6 As part of the grant agreement between CRT and the City Council it will be CRT's responsibility to inform canal and towpath users of the works as they progress, particularly where temporary closures are required.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

- 4.1.1 The Birmingham Cycle Revolution (BCR) programme seeks to promote sustainable travel options by increasing the attractiveness of cycling, which will contribute to reducing car usage, improving health and the environment, and improving connectivity for households without a car. The target is for a 27% increase in cycling in the original BCR area within a 20-minute cycling time of the city centre by 2016, compared with 2013, and for cycling to make up 5% of all journeys by 2023 compared with less than 2% at present. Many of the proposals will also benefit pedestrians, public transport and road safety.
- 4.1.2 The proposals will support the City Council's policy objectives outlined in the Council Business Plan 2015+, the Leader's Policy Statement, and 'Birmingham 2026 – Our Vision for the Future' in particular for '*a prosperous city*' and '*a fair city*'. The measures support the recommendations of the Transport, Connectivity & Sustainability Overview and Scrutiny Committee (TCS O&S) report 'Changing Gear, Transforming Urban Movement Through Walking & Cycling in Birmingham' from April 2013. They will also support the aspirations of the Birmingham Development Plan (BDP), Birmingham Connected, and the Health & Wellbeing Strategy.
- 4.1.3 The project supports the targets set out in the West Midlands Local Transport Plan 2011-26 (LTP3) in terms of economic regeneration, increasing the mobility of labour markets, reducing greenhouse gas emissions, and encouraging sustainable travel options.

4.2 Financial Implications

- 4.2.1 The BCR Phase 2 programme is £8.000m in total, funded by £6.000m from the Greater Birmingham & Solihull Local Enterprise Partnership's Local Growth Fund (GBSLEP-LGF) supported by £2.000m of local contributions from the City Council's ITB allocation and other local sources. The programme received Project Definition Document (PDD) approval at Cabinet in March 2015, as part of the approval to the overall Local Growth Fund. The LGF funding was confirmed by the GBSLEP Growth Team on 2nd September 2015 and a letter of confirmation was received on 23rd October 2015.
- 4.2.2 The BCR Phase 3 programme is £30.000m in total, funded by £22.100m from the DfT's second tranche of Cycle City Ambition Grant funding and £7.900m from local public-sector sources as a local contribution. The programme received PDD approval at Cabinet in March 2015. DfT confirmed funding of £22.100m in principle by letter on 23rd March 2015 and the City Council's Section 151 Officer confirmed acceptance of the first instalment of £1.000m and its associated conditions on 23rd April 2015. Grant for 2016/17 and beyond is subject to formal confirmation by DfT, expected after the Autumn Spending Review in November 2015.
- 4.2.3 This approval covers proposed canal works which are estimated to cost £3.000m and can be delivered by the 31st December 2016. The work will be funded predominantly through the BCR Phase 2 programme, funded by the GBSLEP-LGF capital grant, which has an allocation of £1.950m for canal works. The remainder will be funded through BCR Phase 3, from the second tranche of the DfT's CCAG funding. The elements of the project to be funded through BCR Phase 3 would not be committed unless and until funding for 2016/17 is confirmed by DfT.

- 4.2.4 The proposed works will be implemented by Canal & River Trust under a new Third-Sector 'Conditions of Grant Aid' (COGA) agreement, using their framework contractor arrangements. This is the same mechanism used successfully to deliver the Phase 1 programme. The COGA agreement will be in place prior to any agreement to commence work or to make any grant payments, and will include a caveat that works funded by the DfT through the BCR Phase 3 programme must not be committed until that funding is confirmed. In addition, the City Council will be required to agree to the commencement of each element of work, to ensure that expenditure is not committed before funding has been confirmed.
- 4.2.5 Maintenance of existing or improved assets on the canal network will become the responsibility of CRT and will not be a liability for the City Council, and this will form part of the Conditions of Grant Aid agreement.
- 4.2.6 CRT will also fund their own staff time for the design and delivery of the Canal Works as their own local contribution to the project, at an estimated cost of £0.100m. This will not come through the City Council's ledger and is not included within the approval sought through this FBC.
- 4.2.7 Risk management assessments were carried out for the initial Canal Works FBC in December 2013. These have been reviewed and updated and are included in Appendix C.
- 4.3 Legal Implications
- 4.3.1 CRT has powers and duties under the Transport Acts 1962 and 1968 to maintain the canal network and ensure public access to the towpaths. Most improvement works on their land is classed as permitted development and does not require planning consent. Where proposals affect other land then CRT would be responsible for planning applications where required.
- 4.3.2 Towpath improvements do not require Conservation Area consents but if any other measures affect conservation areas or listed buildings then CRT would be responsible for obtaining the necessary approvals from the City Council.
- 4.3.3 Partnership working with CRT will be governed through a new Conditions of Grant Aid (COGA) similar to that used for BCR Phase 1, under the Third Sector Grant Funding Framework and Toolkit 2011. The grant conditions to CRT will require their contractors to adopt the 'Birmingham Business Charter for Social Responsibility' (see Section 5.4).
- 4.3.4 Other legislation is also relevant to the introduction of cycling facilities including: Health & Social Care Act 2012; Crime & Disorder Act 2006; and Equality Act 2010. Construction works will be designed and implemented in accordance with the Construction Design and Management Regulation 2015.
- 4.4 Public Sector Equality Duty
- 4.4.1 An initial Equality Analysis was carried out for BCR Phase 1 prior to approval of the PDD and submission of the bid in April 2013. A more detailed analysis was produced for the Canal Works elements as part of the first FBC approval in December 2013 (ref EA000033), and this has now been updated for the Phase 2 and 3 Canal Works programmes (ref EA000859) as included in Appendices B of this FBC. The analysis concluded that there will be no adverse impact on any of the protected groups.

5. Relevant background/chronology of key events:

5.1 BCR Programme and Funding

5.1.1 The first phase of the Birmingham Cycle Revolution (BCR) programme began in 2013 funded by £17.0m of capital funding under the first tranche of the DfT's Cycle City Ambition Grant (CCAG) supported by local contributions from the City Council's ITB allocation and other local sources. This programme concentrated on an area within about a 20-minute cycling time of the city centre, and included schemes on Main Corridors, quieter Parallel Routes, Canal Works, Green Routes, 20mph Areas, and Supporting Measures including Cycle Parking, Private Cycle Parking Grants (Top Cycle Location), Big Birmingham Bikes, and Cycle Hire through Brompton Docks. The programme was approved through a PDD to Cabinet on 22nd April 2013.

5.1.2 The second phase of BCR has funding of £6.0m for financial years 2015-19 through the Greater Birmingham and Solihull Local Enterprise Partnership's Local Growth Fund (GBSLEP-LGF) supported by a further £2.0m of local contribution. This money will be used to continue the Phase 1 works, including further Corridor, Green, Canal and 20mph schemes and on-going support for the Big Birmingham Bikes and Top Cycle Location initiatives. The programme received Project Definition Document (PDD) approval at Cabinet in March 2015, as part of the approval to the overall Local Growth Fund. The LGF funding was confirmed by the GBSLEP Growth Team on 2nd September 2015 and a letter of confirmation was received on 23rd October 2015.

5.1.3 The government announced a second tranche of CCAG funding in late 2014 for the eight cities who received funding in the first tranche. Birmingham was invited to bid for £22.1m of further funding for financial years 2015-18 and a bid was submitted by the deadline of 30th January 2015. This will be supported by a further £7.9m of local public-sector contributions to take the total Phase 3 programme to £30.0m, to create funding of £10 per head of population (up to the 1.0 million cap specified by DfT) per year for the next three years, which was a DfT requirement for the bid. The programme received PDD approval at Cabinet in March 2015. DfT confirmed the funding in principle by letter on 23rd March 2015 and the City Council's Section 151 Officer confirmed acceptance of the first instalment of £1.000m and its associated conditions on 23rd April 2015. The DfT have now made an initial grant payment of £1.000m for expenditure in 2015/16. Confirmation of grant for 2016/17 and beyond is still subject to confirmation by DfT after the Autumn Spending Review in November 2015.

5.2 Canal Works Programme (this approval)

5.2.1 An FBC for BCR Phase 1 Canal Works was approved by Cabinet in December 2013, and a second tranche of Phase 1 Canal Works was then approved by Cabinet in May 2015. These approvals were funded through the first tranche of Department for Transport (DfT) Cycle City Ambition Grant (CCAG) capital funding. The works have been successfully delivered through CRT and their appointed contractors, and are now close to completion.

5.2.2 This new approval covers a further £3.000m of towpath improvement works, signing and wayfinding, and minor (non-structural) access improvements, which can be delivered in 2016. The works cover sections of five canals, as outlined in Appendix A and on the plans in Appendix E. The improvements will be funded predominantly through the GBSLEP-LGF funding for the BCR Phase 2 programme, which has an allocation of £1.950m for canal works. The remainder will be funded through BCR Phase 3, from the second tranche of the DfT's CCAG funding, subject to that funding being confirmed by DfT. This will complete the full programme of towpath improvements across the city.

5.2.3 The towpaths will be resurfaced using a sealed bitumen-bonded gravel surface ('spray-and-chip'), the same as that used for the initial canal and green route schemes in 2014. It is expected that the works will be carried out during 2016. The contracts will include a second sweeping of the paths after they have been opened to the public, to remove accumulated excess gravel in order to provide a smoother ride for cyclists.

5.3 Other Information

5.3.1 There are further off-road proposals in BCR Phases 2 and 3 but these require either structural design work, more extensive consultations, or liaison with other landowners. It is expected that these will be delivered in 2017-18 and further FBC reports will be produced for these in due course. These further works are expected to include access improvements over the same sections of canal as the towpath works covered by this report. The current proposals do not include for lighting of any canal routes as historically these have not been lit. However, Phase 3 of the BCR programme includes the possibility of a trial lighting scheme for off-road routes in a location to be determined, although permanent lighting of canals and green routes will still be dependent on funding being found and agreements reached for on-going maintenance liabilities.

5.3.2 Other elements of the BCR Phase 2 and 3 programmes, including highway works, green routes and supporting measures, will be subject to separate FBC approvals. These elements will include a programme of on-highway 'Local Link' schemes to improve connections between the canal access points and the main on-street cycle route network.

5.3.3 The cycling infrastructure proposals will be supported by the City Council's on-going Smarter Choices activities including marketing, education, training, publicity, and travel-planning initiatives to encourage people to make sustainable travel choices. These initiatives are funded on an on-going basis through the City Council's revenue budgets.

5.3.4 A Project Board has been created to provide support and guidance on the BCR programme. This consists of Cabinet Members and Senior Officers of the City Council. These Project Governance arrangements were detailed in the FBC for the BCR Phase 1 Canal Works which was approved by Cabinet on 16th December 2013, and will continue for BCR Phases 2 and 3. The Project Board meets monthly and its responsibilities include reviewing and guiding the design development process and approving final scheme details, extents and programmes. Should further formal approvals be required then these will still be sought through the Corporate Gateway Process.

5.4 Procurement

5.4.1 As the CRT are the owner of the canal network, the initial towpath works in 2014 were procured through a direct award of a grant under the Third Sector Grant Funding Framework and Toolkit 2011, for CRT to manage, design and deliver the measures on behalf of the City Council through their existing specialist term consultant and term contractor arrangements for canal works. It is proposed that this next phase of works is procured in the same way, and that a new Conditions of Grant Aid agreement is agreed between both parties to cover the additional works.

5.4.2 CRT will utilise their new National Engineering and Construction Contract 2015-21 to procure proposed canal towpath works. CRT's contract is with Kier Construction Limited who have significant experience of implementing works of this nature having been the holder of CRT's previous Construction Framework Contract. CRT has confirmed that they have established the new Framework in accordance with the Public Contracts Regulations 2006 and that it has been subject to competitive tender procedures including OJEU notices. Individual projects are implemented by the issue of Package and Time Charge Orders, and Key Performance Indicators are used, where the supplier's element of the KPIs is linked to 50% of its gain share under the contract.

5.4.3 The business unit within Kier which will carry out the works is already accredited under the Birmingham Business Charter for Social Responsibility as part of their works delivered under BCR Phase 1, and they will be required to submit a revised Action Plan with additional actions proportionate to the value of the additional grant for this new phase of works. This will be a condition of the COGA agreement for these works.

6. Evaluation of alternative option(s):

- 6.1 Alternative options could include 'Do Nothing', but this could lead to the loss of the LEP and DfT funding which has been secured, a failure to improve the canal network for cyclists, and reputational damage to the City Council.
- 6.2 The City Council could employ their own contractors to carry out the canal works, with the agreement of CRT, rather than providing a grant. However, the canal environment requires specialist knowledge and experience which the City Council's contractors may not have, and there could be resourcing issues if the City Council's contractors were asked to implement significant works on the canal, green and highway networks at the same time. Using CRT's contractor will also allow CRT to properly approve completion of the works on their network and to have a direct right to claim against their contractor should any defects arise following completion of the works.
- 6.3 More of the funding could be allocated to improving the City Council's on-street cycle network rather than funding improvements to off-road routes. However, stakeholders have been supportive of improvements to the canal towpaths, and they provide the opportunity for a 'quick win' in terms of encouraging cycling.
- 6.4 Alternative surfacing materials were considered at the beginning of the BCR programme but bitumen-bonded gravel (spray-and-chip) on a sealed bitumen base course was selected as giving the best balance between a surface suitable for all-weather cycling, installation cost, future maintenance, and a suitable appearance for natural 'green' areas. This material was acceptable to both CRT and BCC's Parks Managers and so allows consistent use of materials across all of the BCR off-road routes.

7. Reasons for Decision(s):

- 7.1 The approval of the BCR schemes on the canal network will allow a new COGA agreement to be negotiated between the City Council and the Canal and River Trust to allow for the delivery of these works.

Signatures

Date

Councillor Tahir Ali –

Cabinet Member for Development,
Transport & the Economy

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Councillor Stewart Stacey –

Cabinet Member for Commissioning,
Contracting and Improvement

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Paul Dransfield –

Deputy Chief Executive

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List of Background Documents used to compile this Report:

'Cycle City Ambition Grant – Bid Submission (Project Definition Document)', Report to Cabinet, 22nd April 2013.

Funding Bid to DfT, December 2011 – 'Birmingham Cycle Revolution'.

'Transportation and Highways Capital Programme 2014/15 to 2016/17 – Programme Definition Document', Report of the Deputy Chief Executive to Cabinet, 17th November 2014

'Local Growth Fund Transport and Connectivity Projects: Programme Definition Document', Report of the Deputy Chief Executive to Cabinet, 16th March 2015.

'Birmingham Cycle Revolution Phase 3: Programme Definition Document', Report of the Deputy Chief Executive to Cabinet, 16th March 2015.

'Changing Gear, Transforming Urban Movement Through Walking & Cycling in Birmingham', Transport, Connectivity & Sustainability O&S Committee Report to City Council, April 2013.

'Birmingham Cycle Revolution (Cycle City Ambition Grant): Canal Works – Full Business Case', Report to Cabinet, 16th December 2013.

'Birmingham Cycle Revolution Phase 1: Canal Towpath and Green Routes – Full Business Case', Report to Cabinet, 18th May 2015.

List of Appendices accompanying this Report:

Appendix A – BCR Phase 2 & 3 Canal Works: Full Business Case

Appendix B – BCR Phase 2 & 3 Canal Works: Equality Analysis Ref EA000859

Appendix C – BCR Phase 2 & 3 Canal Works: Risk Management Assessment

Appendix D – BCR Phase 2 & 3 Canal Works: Implementation Programme

Appendix E – BCR Phase 2 & 3 Canal Works: Location Plans

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none">(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) tackle prejudice, and(b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none">(a) age(b) disability(c) gender reassignment(d) pregnancy and maternity(e) race(f) religion or belief(g) sex(h) sexual orientation