

Birmingham City Council

Report to Cabinet

14th December 2021



Subject: Highway Network Extent

Report of: Rob James – Managing Director, City Operations

Relevant Cabinet Members: Councillor Waseem Zaffar, Transport and Environment
Councillor Tristan Chatfield, Finance and Resources

Relevant O & S Chair(s): Councillor Liz Clements, Sustainability and Transport
Councillor Mohammed Aiklaq, Resources

Report author: Judy Johnson, Procurement Manager (Commercial)
Tel: 07548 713622, email: judy.johnson@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009246/2021		
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
N/A		

1 Executive Summary

- 1.1 The Council has undertaken an extensive exercise to improve the accuracy of its Highway Maintainable at Public Expense (HMPE) records. This report seeks approval to transfer resources allocated for the revenue implications of changes in HMPE from the centrally held Policy Contingency budget for highways network inventory change to the Highways and Infrastructure service in the City Operations Directorate. This will ensure that areas identified as a result of corrections to the HMPE record can be maintained.
- 1.2 Improved accuracy has the following benefits:

- 1.2.1 The Council has a clearer and more accurate record of the highway for which it is responsible and can plan for it to be maintained.
- 1.2.2 This better understanding and maintenance helps to mitigate the implications of any claims against the Council for failing to maintain such areas.
- 1.2.3 There is greater certainty for future subcontractor(s) regarding the extent of HMPE, which will reduce their pricing of risks relating to uncertain requirements in re-procurement; and
- 1.2.4 There is reduced time, cost, and delay in dealing with such corrections in the future.

2 Recommendations

That Cabinet:

- 2.1 Notes the results of the exercise to improve accuracy of the Council's Highway Maintainable at Public Expense described in paragraphs 3.7 to 3.9.
- 2.2 Approves the allocation of annual budget totalling £0.609m from centrally-held Policy Contingency specifically for highways inventory change to the Highways and Infrastructure service in the City Operations Directorate to fund the maintenance of the additional areas for which the Council is responsible from 2021/22 as set out in Appendix A.

3 Background

- 3.1 The Council has a statutory responsibility to maintain the HMPE for which it is Highway Authority under Section 41(1) of the Highways Act 1980.
- 3.2 The Council holds and maintains the Highways Register (required under the Act) and has a spatial record of the HMPE for which it is responsible in a geographical info system (GIS) map layer.
- 3.3 The Council's highway network is extensive, with over 9,000 streets and over 2,500km of carriageway. As for all Highway Authorities, with a network of this size accuracy is related to the resource that the Authority provides to maintaining the Highway Register and HMPE map layer.
- 3.4 The current HMPE record was created originally as a desktop exercise. A number of changes were identified as a result of digital data sets now available such as Google Street View and Land Registry mapping along with the increased inspection and survey requirements under the Highway Maintenance and Management PFI contract.
- 3.5 It is inevitable that corrections will periodically be necessary where areas laid out as public highway have been identified and proven to be HMPE as a result of enquiries, research, and highway case law. These corrections do not change the Council's responsibilities / liabilities (because it is always had responsibility for any areas identified as HMPE). However, once identified the Council needs to ensure that it has a means to maintain such areas.

- 3.6 Such corrections increase or decrease the amount of HMPE and the assets that need to be maintained and thereby change the cost to the Council of highway maintenance. In accordance with the report titled Funding the Revenue implications of Change approved by the Cabinet Member for Transport, Environment and Regeneration dated 1st February 2012, the net implication of such changes is funded from centrally held Policy Contingency budgets identified for increases in the highways network inventory.
- 3.7 In 2019, an exercise was commenced as part of the re-procurement of the subcontractor for the Council's Highway Maintenance and Management PFI contract to improve the accuracy of the HMPE record.
- 3.8 The exercise was concluded at the end of September 2021, improving accuracy to a level that is reasonable with no obvious omissions. Accepting that 100% accuracy is realistically unachievable, the Highways Information Team will continue to check records for any anomalies raised as business as usual. Efficiencies realised during the process of correction will speed up this process, with digitisation of microfiche records held by the council of historical documents, plans, drawings, and cabinet decisions.
- 3.9 The cost has been assessed during the exercise by taking the number of network parts identified and multiplying them by the current estimated annual maintenance costs. Details of this can be found in **Appendix A**.
- 3.10 This report seeks a decision to confirm funding and obtain approval for such funding to be used for future maintenance of the additional areas.
- 3.11 Cabinet is asked to further note that a separate exercise is being undertaken to ensure that schemes completed historically for which the Council will be deemed to be responsible, but which are not currently being maintained, are brought into the maintenance regime. This will further call upon the Policy Contingency resources for change on the highway.

4 Options considered and Recommended Proposal

- 4.1 The recommended proposal is to allocate funding from the centrally held Policy Contingency to fund maintenance of the additional area of highway through the Council's highway maintenance and management contract(s).
- 4.2 There is not the option to do nothing as the Council would not be meeting its statutory duty and this would leave the Council at risk of claims. There are two alternative options, which are not recommended for the following reasons:
- 4.2.1 *To reallocate resources from other parts of the Council to maintain the highway.* This ultimately only moves the problem around within the Council and provides no additional resources.
- 4.2.2 *To provide highway maintenance to a lesser standard on these additional areas in line with the code of practice and to a level of resource that available in this*

instance. This would result in differential standards of service provision, which is practically difficult to implement.

5 Consultation

- 5.1 The Council's Transportation and Highways Board (which manages the development of highway change schemes and their financial implications) has been consulted on the implications for highways revenue resources.
- 5.2 Officers have consulted with the current highway maintenance subcontractor (Kier Highways) to resolve emerging issues with the HMPE layer whilst undertaking the extensive exercise to bring it up to date. This has helped to reduce known inaccuracies.

6 Risk Management

- 6.1 By ensuring that we have an up to date and more accurate HMPE map the Council is better able to manage and mitigate the risk of future claims.

7 Compliance Issues:

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

- 7.1.1 The Council has adopted the Council Plan 2018 to 2022 (2019 update). This identifies six outcomes for the city, the first of which is "*Birmingham is an entrepreneurial city to learn, work and invest in.*" Priority 4 under this outcome is that "*We will develop our transport infrastructure, keep the city moving through walking, cycling and improved public transport.*"
- 7.1.2 This decision directly affects investment in and maintenance of the Council's 2,500km highway network and Council-owned infrastructure on it. Such investment will directly reduce the percentage of carriageways that should be considered for structural maintenance; this is a measure for Outcome 1 / Priority 4 of the Council Plan.
- 7.1.3 By acknowledging the increased extent of the highway network, the Council will be able to allocate sufficient resources to the maintenance of these assets.
- 7.1.4 It will also reduce the likelihood of claims and improve the ability to mitigate claims.

7.2 Legal Implications

- 7.2.1 The Council has a statutory duty to maintain highway infrastructure, primarily under the Highways Act 1980 and the New Roads and Street Works Act 1991.
- 7.2.2 Under Section 111 of the Local Government Act 1972 the Council has power to do anything that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

7.3 Financial Implications

- 7.3.1 By undertaking a review of the highways network inventory, additions have been identified in Appendix A which amount to £0.609m p.a. using contractual rates indexed to today's prices. This will be funded from the confirmed centrally held Policy Contingency revenue budgets. The effect of this additional funding will be to increase the net annual highways maintenance PFI base revenue budget from £50.627m to £51.236m at 2021/22 prices. This increased funding will be needed from 2021-22 onwards.

7.4 Procurement Implications (if required)

- 7.4.1 None.

7.5 Human Resources Implications (if required)

- 7.5.1 By improving the accuracy of the HMPE layer the existing human resource will be able to deal with the anticipated volume as business as usual.

7.6 Public Sector Equality Duty

- 7.6.1 A copy of the initial equality assessment screening ref EQUA753 is shown in Appendix B.

8 Appendices

- 8.1 Appendix A: Table – Revised Network Extent and Maintenance Costs

- 8.2 Appendix B: Equality Assessment

9 Background Documents

- 9.1 Report to the Cabinet Member for Transport, Environment and Regeneration – Funding the Revenue Implications of Change on the Highway (1st February 2012).

