

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: CABINET MEMBERS FOR TRANSPORT AND ROADS AND VALUE FOR MONEY AND EFFICIENCY, JOINTLY WITH THE CORPORATE DIRECTOR, ECONOMY

Report of: ASSISTANT DIRECTOR – TRANSPORTATION AND CONNECTIVITY

Date of Decision: 30TH OCTOBER 2017

SUBJECT: SELLY OAK NEW ROAD PHASE 1B – FULL BUSINESS CASE AND CONTRACT AWARD

Key Decision: Yes (delegated) Relevant Forward Plan Ref: n/a

If not in the Forward Plan: Chief Executive approved ☐

(please "X" box) O&S Chair approved ☐

Relevant Cabinet Member(s) or Relevant Executive Member Councillor Stewart Stacey – Cabinet Member for Transport and Roads
Councillor Majid Mahmood – Cabinet Member for Value for Money and Efficiency

Relevant O&S Chair: Councillor Zafar Iqbal – Economy, Skills and Transport
Councillor Mohammed Aikhlaq – Corporate Resources and Governance

Wards affected: Selly Oak

1. Purpose of report:

- 1.1 To seek approval to the Full Business Case for the proposed Selly Oak New Road Phase 1B (SONR 1B) project at a total cost of £9.223m. The key benefits of this investment are to support and protect the City's growth objectives in terms of enabling access to key development sites and managing congestion.
- 1.2 To provide details of the outcome of the procurement process followed.
- 1.3 The accompanying private report contains confidential market information, and seeks approval to the Full Business Case and to accept funding from the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP).
- 1.4 The private report also seeks authorisation to place orders with preferred contractors for the design and works, and landscaping, and to place orders with statutory undertakers.
- 1.5 On 16th May 2017 Cabinet delegated approval of the Full Business Case for this project to the Cabinet Members for Transport and Roads and Value for Money and Efficiency, jointly with the Corporate Director, Economy, as part of the Programme Definition Document for the Updated Transportation and Highways Capital Funding Strategy 2017/18 to 2022/23.

2. Decision(s) recommended:

That the Cabinet Member for Transport and Roads and the Cabinet Member Value for Money and Efficiency, jointly with the Corporate Director, Economy:

- 2.1 Note the content of this report and the attached Full Business Case.

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3. Consultation

3.1 Internal

- 3.1.1 Ward Councillors for the affected ward together with the local MP, the District Committee Chair, the Assistant Director of Highways and Infrastructure and the District Engineers have been consulted. The outcome of the consultation is detailed in Appendix D.
- 3.1.2 Officers from City Finance, Procurement and Legal Services have been involved in the preparation of this report.
- 3.1.3 The Leader has been consulted in respect of the land and property responsibilities and supports the proposals to proceed to executive decision.
- 3.1.4 Officers from Property Services and Housing Regeneration been consulted over dedicating the Economic Development land and Housing land as highway maintained at public expense and support the proposal.

3.2 External

- 3.2.1 A public consultation was carried out in September 2016 through letter drops and drop-in sessions. The results are given in Appendix D.
- 3.2.2 Transport for West Midlands, bus operators, cycling groups and other key stakeholders have also been consulted as part of the scheme development and the results are given in Appendix D.
- 3.2.3 The project team has reviewed and revised the scheme layout following the public consultation feedback received in late 2016. On 10th August 2017, City Council Officers presented the revised draft scheme plans to the Selly Oak and Edgbaston Consultative Group attended by the three Ward Councillors, the local MP, local resident groups / associations and other stakeholders. The group supported the proposals and progression of the project to construction.

4. Compliance Issues:

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

- 4.1.1 The SONR 1B project fully supports the Council's Vision and Forward Plan priorities, specifically growing the creation of "Jobs and Skills" through investment in transport infrastructure and improved connectivity that supports new developments being built in Birmingham. The project also aligns with the GBSLEP Strategy for Growth, Strategic Economic Plan.
- 4.1.2 The project supports the targets set out in the West Midlands Local Transport Plan 2011-2026 (LTP3) in terms of improving the economy, reducing emissions, providing equality of opportunity, and improving the local environment.
- 4.1.3 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of this contract. The recommended contractor is a certified signatory to the charter and has committed to additional actions with their tender proportionate to the value of this contract that will be added to their action plan. The action plan of the successful tenderer will be implemented and monitored during the contract period.

4.2 Funding Implications

- 4.2.1 The Project Definition Document (PDD) for the Local Growth Fund (LGF) programme including the SONR Phase 1B Project was approved by Cabinet on 16th March 2015.

The project cost estimate at PDD stage was £6.187m and the funding proposal was £3.633m LGF, £0.533m Integrated Transport Block (ITB) and £2.021m Section 106 Contribution. Given the short timescales and limited scheme detail available at the time of the bids submission (and PDD stage), significant detailed work has been undertaken to refine the project detail, costs and funding during 2015 to 2017. This has been a lengthy and complex process which has had to consider general cost increases within the construction and engineering industries following Brexit and impacts of HS2 on the market in respect of resources.

- 4.2.2 The estimated cost of the SONR 1B project is £9.223m (including works, contingency, statutory undertakers' diversions and fees). The Project funding is shown in Table 1.

Table 1: Funding	Sum
LGF	£3.633m
ITB	£1.580m
Section 106	£2.560m
Income	£0.450m
Prudential Borrowing	£1.000m
Funding Total	£9.223m

- 4.2.3 The main reasons for the Project cost increase from PDD to FBC are given in Section 5.8 below.
- 4.2.4 The Funding Strategy for the SONR Phase 1B Project was set out in the Updated Transportation and Highways Funding Strategy 2017/18 to 2022/23 PDD Report approved by Cabinet on 16th May 2017, which also approved the prudential borrowing required to part fund this scheme.
- 4.2.5 On 28th June 2016 GBSLEP approved the scheme Business Case and allocation of LGF funding in the sum of £3.633m. A Deed of Variation of the existing S106 Agreement is now in place, which provides a Developer's contribution of £2.560m to be used towards the scheme.
- 4.2.6 The recommended tender is within the pre-estimate and further details are provided in the Private Report.
- 4.2.7 A risk management assessment has been undertaken and is included in Appendix C.

4.3 Revenue Implications – Infrastructure

- 4.3.1 The cost of the Prudential Borrowing is £86,830 per annum over a 15 year period which will be funded from income as set out in the Updated Transportation and Highways Funding Strategy 2017/18-2022/23 approved by Cabinet on 16th May 2017.

4.4 Revenue Implications – Maintenance

- 4.4.1 The SONR 1B scheme will 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 regime. The estimated net cost of including these newly created assets within the highway maintenance regime is £20,000 pa (full year 2020/21) for SONR 1B. This additional cost will be funded from the provision for Highways Maintenance held within Corporate Policy contingency. The new retaining wall (see Section 5.2) is to be maintained by the Developer.

4.5 Legal Implications

- 4.5.1 The City Council carries out transportation, highways and infrastructure related works

under the relevant primary legislation including the Town and Country Planning Act 1990, Highways Act 1980, Road Traffic Regulation Act 1984, Traffic Management Act 2004, Transport Act 2000, Local Government (Miscellaneous Provisions) Act 1976, Countryside and Rights of Way Act 2000, and other related regulations, instructions, directives and general guidance.

4.6 Public Sector Equality Duty (see separate guidance note)

4.6.1 An Equality Analysis has been undertaken for SONR 1B scheme and is attached as Appendix B to this report.

5. Relevant background/chronology of key events:

5.1 The first two phases (1A and 2) of the overall Selly Oak New Road (SONR) project were completed in 2009 and 2011 respectively, which have unlocked brownfield land development opportunities and improved access to the Queen Elizabeth Hospital.

5.2 SONR 1B is the final section of the overall SONR project, which consists of highway improvements to the 'Selly Oak Triangle' made up of Bristol Road, Harborne Lane and Chapel Lane (a key junction between the A38 and A4040). The scheme will provide improved access to the development sites including the Life Sciences Campus on the Birmingham Battery Site. In addition the scheme provides additional traffic capacity and supports the regeneration of Bournbrook / Selly Oak local centre. The scheme comprises of the following measures and is shown on Drawing No. PB6129 - SK004 attached as Appendix E1:

- Signalisation of the Gibbins Road / Harborne Lane junction which is to be delivered by the Developer under a Section 278 Agreement in advance
- Harborne Lane, between Bristol Road and Chapel Lane - The existing one way carriageway section to be widened and made to two way dual carriageway.
- Chapel Lane, between Bristol Road and Harborne Lane - The existing one way carriageway section to be made to two way single carriageway.
- Existing retaining wall around the triangle site to be removed as necessary and new retaining wall to be constructed as a result of the wider carriageway.
- Bristol Road / Harborne Lane / Oak Tree Lane signal controlled junction to be modified to suit the new layout.
- Chapel Lane / Harborne Lane junction to be signalised.
- Bristol Road / Chapel Lane / Elliott Road junction to be modified to suit the new layout
- Current 'T' junction on Chapel Lane outside of the retail park to be converted to a public realm style roundabout.
- New footway, pedestrian crossing facilities and other necessary highway facilities as a result of the above changes.
- New bus infrastructures and upgrading on the existing ones (shelters and platforms).
- Cycle Measures:
 - Segregated two way cycle track along Bristol Road with single phase cycle crossing at Harborne Lane junction and single / diagonal cycle crossing at Chapel Lane junction.
 - Segregated two way cycle track along Harborne Lane.
 - The Drawing No. CA-02722_S1_005 attached as Appendix E2 shows the connectivity of the cycle measures proposed as part of the SONR 1B project to the wider existing / proposed measures in the Selly Oak area.

5.3 The delivery of the SONR 1B scheme is linked to the associated development of the Birmingham Battery Site by the Harvest Partnership. A section of private land owned by Sainsbury's where their existing supermarket is located at the 'Selly Oak Triangle' is required for the construction of the SONR 1B. A Land Agreement was signed between the City Council and Sainsbury's in September 2013 which enables the City Council to

take possession of the relevant areas of land at the Selly Oak Triangle 6 months after Sainsbury's open their new supermarket.

- 5.4 In November 2013 Harvest secured outline planning consent for a mixed use development on the Birmingham Battery Site including a new Sainsbury's supermarket. This consent provided for improvement to the public highway at Bristol Road, Harborne Lane and Chapel Lane within the existing highway boundary. Harvest were to carry out their highway works, known as the 'alternative SONR 1B', under Section 106 and Section 278 Agreements prior to occupation of the new supermarket.
- 5.5 On 7th July 2014, the Government announced 39 Growth Deals to Local Enterprise Partnerships (LEP). One of the City Council promoted transportation projects included within the specific GBSLEP Growth Deal was the SONR 1B scheme. On 28th June 2016 GBSLEP approved the scheme Business Case and allocation of LGF funding in the sum of £3.633m.
- 5.6 The Project Definition Document (PDD) for Local Growth Fund Transport and Connectivity Projects, including SONR 1B, was approved by Cabinet on 16th March 2015.
- 5.7 In light of the City Council securing LGF, the City Council entered into discussions with the Developer, the Harvest Partnership, to vary the Section 106 Agreement to enable the reallocation of their funding from the 'alternative SONR 1B' to the City Council's SONR 1B scheme. The Heads of Terms for the Deed of Variation to the Section 106 Agreement was agreed at Planning Committee in March 2016. The Deed of Variation was completed in October 2016. The release of the Section 106 contribution is triggered primarily by securing FBC approval and letting of a contract for the works following service of the Implementation Notice by the Developer. The Implementation Notice was served on 14th August 2017. The planning consent also required the Developer to install traffic signals at the Harborne Lane / Gibbins Road junction prior to the opening of the new supermarket. The Developer will deliver these works under a Section 278 Agreement at their cost, the works are programmed to start Spring 2018.
- 5.8 The current cost estimate is £9.223m, the adjusted estimate following the PDD reflects the construction market conditions and provides for increased contingency and risk sums that better reflect the nature of the works. The project cost, programme and risks will continue to be reviewed monthly. Any variances / unforeseen works up to the end of the construction are expected to be contained within the current estimate of £9.223m. The main reasons for the cost increase are as follows;
- i. Enhanced Cycling Measures – the cycle measures have been reviewed and the proposals provide for segregated cycle tracks and crossings consistent with the measures proposed on the A38 corridor.
 - ii Contingency and Risk Provision – In light of the increase in construction costs nationally, the 12 month slippage in the programme and construction risks, particularly traffic management on this strategic route and interface with Sainsbury's store site.
- 5.9 The current SONR 1B proposal requires the highway to be widened at the corner of the Bristol Road / Harborne Lane junction beyond the existing highway boundary to the City Council's land currently held by Economy and Place Directorates. It is proposed to dedicate the area as indicated on the drawing CA-02722_S1_004 attached as Appendix E4 as highway maintained at public expense. The relevant City Council Officers have been consulted and agreed to the proposed dedication.
- 5.10 The procurement route to award the contract was to carry out a further competition exercise using the Council's Highways and Infrastructure Framework Agreement Lot 4 – Works above £500,000. The procurement process undertaken is detailed in Appendix A

– Full Business Case attached to this report.

- 5.11 The tendered price of the preferred contractor is within the project cost estimate. The results of the tender process are detailed in the Private Report. The procurement process was for a Design and Construction contract with a stop clause to limit the risk of not being able to agree a final works cost. If at the conclusion of the design stage we are unable to agree a price with the preferred Contractor for the works element, the Council will own the design but will have to re-tender the works element as a separate contract.
- 5.12 The highway proposals impact on approximately 30 trees (to be confirmed at the detailed design stage) of which 13 are on the public highway, 7 non highway trees and 10 trees on private land. It is proposed to appoint an experienced contractor using the City Council's Landscape Construction Framework Agreement 2015-2019 for the proposed landscaping, including tree removal and planting works. The work will be procured in line with the framework agreement where the work is offered to the first ranked supplier in the first instance. If this opportunity is declined, it will be offered to the second ranked supplier and so forth. The loss of highway trees will be compensated on a 2 for 1 basis in the vicinity, indicative landscape proposals are shown on drawing no. 80409-L001 attached as Appendix E3, the proposals will be developed and tree locations confirmed at the detailed design stage. The trees to be removed will be cut into manageable lengths and removed from site to the Hodge Hill timber recycling depot run by Parks, where the tree waste is converted into Biomass wood fuel which the City Council then supplies under contract to a green energy company. This process generates income for the city. The new trees within the highway boundary will be maintained for two years by the landscape contractor. All of the new trees will be maintained by the City Council. The cost associated with these works is provided for in the scheme cost.
- 5.13 Approvals are now sought to the FBC for SONR 1B scheme and to award a contract for the Design and Construction of the scheme. Authority is also sought to place orders for the diversion of statutory undertakers' apparatus and to delegate the appointment of a Contractor for the landscaping works to the Assistant Director Transportation and Connectivity as detailed in the private report.
- 5.14 The delivery programme for SONR 1B is as follows:
- Appointment of Design and Construct Contractor: October 2017.
 - Detailed Design start: October 2017.
 - Developer opens new store: December 2018
 - Private land at the triangle site available: June 2019.
 - Construction start: March 2019.
 - Construction finish: February 2020.
- 5.15 The construction works will result in some disruption to road users and businesses / residents in the locality. The appointed contractor is required to put in place Temporary Traffic Management control measures, these measures will be developed during the design development stage in conjunction with the Traffic Manager. The appointed contractor is also required to put in place a Stakeholder Engagement and Management Plan and this will include the proposals for communicating the construction works and expected disruption impacts to users.
- 6. Evaluation of alternative option(s):**
- 6.1 Alternative options were explored as part of the development of the overall SONR project, which went through the Public Local Inquiry held in May 2005. Additional cycle measures have been identified through a separate study and will be developed further at the detailed design stage.

7. Reasons for Decision(s):

- 7.1 Approval of this FBC and contract award for SONR 1B will allow the project to progress to detailed design and implementation.

Signatures

Date

Councillor Stewart Stacey
Cabinet Member for Transport and Roads

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Councillor Majid Mahmood
Cabinet Member for Value for Money and Efficiency

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Waheed Nazir
Corporate Director, Economy

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List of Background Documents used to compile this Report:

1. Local Growth Fund Transport and Connectivity Projects Project Definition Document - Report of the Deputy Chief Executive to Cabinet 16th March 2015
2. GBSLEP Full Business Case for SONR Phase 1B – June 2016
3. Updated Transportation and Highways Capital Funding Strategy 2017/18 to 2022/23 Programme Definition Document – Report to Cabinet 16th May 2017

List of Appendices accompanying this Report (if any):

1. Appendix A – Full Business Case
2. Appendix B – Equality Assessment Ref: EA002178
3. Appendix C – Risk Management Assessment
4. Appendix D – Consultation Summary
5. Appendix E1 – PB6129 - SK004 RevE General Arrangement
6. Appendix E2 – CA-02722_S1_005 RevA Cycle Measures
7. Appendix E3 – 80409-L001 Rev- Landscape Proposal
8. Appendix E4 – CA-02722_S1_004 Rev- Highway Dedication
9. Appendix F – Tender Evaluation Summary

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 – (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 The Council must, in the exercise of its functions, have due regard to the need to:
 - (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 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:
 - (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 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.
- 4 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:
 - (a) tackle prejudice, and
 - (b) promote understanding.
- 5 The relevant protected characteristics are:
 - (a) Marriage & civil partnership
 - (b) Age
 - (c) Disability
 - (d) Gender reassignment
 - (e) Pregnancy and maternity
 - (f) Race
 - (g) Religion or belief
 - (h) Sex
 - (i) Sexual orientation