

# Birmingham City Council

## Report to Cabinet Member for Transport and Environment and Cabinet Member for Finance and Resources



9<sup>th</sup> February 2021

**Subject:** Southside Public Realm Improvement Scheme  
Full Business Case (FBC) and Contract Award

**Report of:** Acting Director, Inclusive Growth and Interim  
Chief Finance Officer

**Relevant Cabinet Member(s):** 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

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

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Ladywood, Bordesley and Highgate		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Commercially sensitive information is provided in Appendix J to this report in accordance with Paragraph 3 - Schedule 12A Local Government Act 1972: Information relating to the financial or business affairs of any particular person (including the Council). The accompanying exempt appendix contains confidential market information which could impact on the tender process.		

## **1 Executive Summary**

- 1.1 To seek approval to the Full Business Case (FBC) and Contract Award for the Southside Public Realm Improvement Scheme as set out in Appendix A and shown on the scheme plans available in Appendix B. The scheme forms part of the Enterprise Zone Connecting Economic Opportunities Programme (EZCOP) – a key infrastructure programme as part of the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Enterprise Zone Investment Plan. The focus of the programme and of this scheme is to enhance links between sites and major transport hubs. The scheme aims to transform the Southside area into a new “front-door” for Birmingham city centre by creating a new public space adjacent to the Hippodrome Theatre and improving the quality of key local streets proving safe and attractive pedestrian and cycle routes which will encourage the use of active modes of transport.
- 1.2 To provide details of the outcome of the procurement process and to seek approval for the award of contracts and placing of orders for all the works for the scheme including the Statutory Undertakers diversion works.
- 1.3 To confirm the revised total estimated capital cost for the scheme of £9.528m following the outcome of the works procurement tender process, which is an increase of £1.351m from the Outline Business Case (OBC) estimated capital cost of £8.177m approved by Cabinet in March 2020.
- 1.4 To provide details of the revised funding strategy as set out in section 7.3, including an updated submission for EZ funding of £8.033m, approved on 3<sup>rd</sup> February 2021 by GBSLEP Programme Delivery Board and subject to GBSLEP Supervisory Board final approval.

## **2 Recommendations**

- 2.1 Approves the Full Business Case (FBC) and contract award for Southside Public Realm Improvement Scheme at a total estimated capital cost of £9.528m subject to final EZ funding approvals per 2.2 below, as set out in Appendix A and as shown on the scheme plans in Appendix B, noting that this is in line with the preferred option approved by Cabinet on 17<sup>th</sup> March 2020 in the Outline Business Case (OBC) for the Southside Public Realm Improvement scheme.
- 2.2 Authorises the acceptance of £8.033m EZ funding approved on 3<sup>rd</sup> February 2021 by GBSLEP Programme Delivery Board, subject to GBSLEP Supervisory Board approval, as a contribution towards the delivery of the scheme, noting that this is addition to £0.692m already secured. Funding letters are attached in Appendix C.
- 2.3 Authorises the acceptance of third-party funding contributions totalling £0.365m as a contribution towards the delivery of the scheme. Funding letters are in Appendix C.
- 2.4 Approves the City Council, acting as the Accountable Body for the GBSLEP Enterprise Zone, prudentially borrowing up to £8.725m to contribute towards the

total estimated cost of £9.528m for the Southside Public Realm Improvement Scheme.

- 2.5 Delegates authority to the Assistant Director, Transport and Connectivity to accept the EZ and third-party funding contributions detailed in 2.2 and 2.3 and to enter into any funding agreements as required.
- 2.6 Approve the award of a contract to nmcn Plc for the works for the Southside Public Realm Improvement Scheme, following a procurement process and outcome as detailed in Appendix G.
- 2.7 Authorises the Assistant Director, Transport and Connectivity to place orders with Statutory Undertakers to move apparatus.
- 2.8 Authorises the City Solicitor (or their delegate) to complete all relevant documents necessary to give effect to the above recommended decisions.

### **3 Background**

- 3.1 The strategy for the Enterprise Zone (EZ) and its associated Investment Plans were first established in the Big City Plan, adopted by the City Council in 2011. The Big City Plan sets out a strategic framework for the growth of the city centre which is underpinned by a series of development principles. One of these principles includes connectivity and improving the walkability of the city centre with a network of streets and spaces that, through public realm improvements, will contribute to the creation of a high-quality environment attracting investors, visitors, businesses and residents to the centre. High quality connections and public realm have been recognised as important factors to the economic performance and success of an area and maintaining a competitive edge that is fundamental to the ability of this centre place to compete against other major cities for private sector investment.
- 3.2 In September 2015, as part of the Phase 1 City Centre Traffic Management Plan to reduce pressure on Hill Street, a temporary Traffic Regulation Order (TRO) was approved by the Highways Authority to close off the junction between Hurst Street and Smallbrook Queensway.
- 3.3 A Programme Entry Proposal (PEP) was approved in December 2015, under Chief Officer delegation, which gave approval to develop options to introduce a permanent TRO and associated highway works, including prohibition of through traffic from Ladywell Walk to Smallbrook Queensway to allow future Phase 3 public realm works while still maintaining full access to car parks in the area and providing areas for loading and taxis. In December 2017, as part of Phase 2, a permanent TRO was delivered to prevent through traffic from Ladywell Walk onto Smallbrook Queensway.
- 3.4 External consultants were appointed to develop the detailed design for the public realm improvements that meet the objectives of the scheme. The GBSLEP Outline Business Case (OBC) for the Southside Public Realm programme was approved on 11<sup>th</sup> December 2019. The GBSLEP OBC released funding to

complete the detailed design and to develop the project to Full Business Case (FBC).

3.5 On 11<sup>th</sup> December 2019 GBSLEP approved the OBC for Southside Public Realm Improvement Scheme at a total estimated capital cost of £8.177m and provisionally allocated £7.268m of EZ funding (of which £0.692m was secured and £6.576m was subject to final FBC submission). Following the outcome of the works procurement tender process, the total estimated capital cost of the scheme has increased by £1.351m to £9.528m and in addition, funding assumed from other sources has reduced by £0.106m resulting in a funding gap of £1.457m. To address this gap an updated request for £8.033m (£6.576m plus £1.457m) EZ funding was submitted to the GBSLEP and approved on 3<sup>rd</sup> February 2021 by GBSLEP Programme Delivery Board. This is now subject to GBSLEP Supervisory Board final approval.

3.6 This FBC covers the remaining works to complete the final phase of the scheme. Scheme plans are available in Appendix B and comprises the following:

- Southside Public Realm Improvement Scheme will transform the links from New Street Station to Southside. Improvements include a new civic square at the heart of Southside to create a focal point for the Hippodrome, Theatre and Chinatown.
- The proposed works will incorporate a realignment of the pedestrian crossing over Smallbrook Queensway providing a natural continuation from New Street Station for pedestrians and cyclists and improvements to the public realm on Hurst Street and Ladywell Walk.

Refer to Section A3 in Appendix A for further details of the proposals.

3.7 It is proposed to commence construction in April 2021 with a construction period of approximately 52 weeks.

#### **4 Options Considered and Recommended Proposal**

4.1 Options considered and the recommended proposal are detailed as part of the OBC to Cabinet on 17<sup>th</sup> March 2020. The recommended proposal has been developed and progressed to FBC.

#### **5 Consultation**

5.1 Ward Councillors for Ladywood, Bordesley and Highgate with the local MP have been consulted. Ward Councillors are supportive of the scheme proposals.

5.2 The scheme proposals have been developed jointly with Southside Business District Limited (formally known as Southside BID).

5.3 A full public consultation on the scheme proposals was carried out between 17 June 2019 and 19 July 2019 and 95 responses were received via BeHeard and an additional 5 from key stakeholders and businesses/organisations.

5.4 Analysis of the consultation responses identified key themes from local individuals including:

- 82% of respondents supported the proposals to improve the public realm in Southside; and
- 83% of respondents felt the scheme would have a positive impact on businesses in the area.

5.5 All responses received to the consultation have been considered and where appropriate incorporated into the scheme proposals accordingly. Details are given in FBC Appendix A and Consultation Summary Appendix D.

5.6 Traffic Regulation Orders will be advertised in advance of the start of works and any objections will be considered in accordance with statutory requirements.

## 6 Risk Management

6.1 Key risks and mitigations are outlined below. Please refer to Appendix E for further information.

Risk or Issue	Mitigation
Significant changes to scheme layout due to unforeseen works which could lead to objections to proposals during consultation and TRO stages	Ground investigation survey undertaken to inform detailed design prior to construction start. Early dialogue with key stakeholders already ongoing
Delivery programme to slip	Continual monitoring of project progress to be undertaken to detect if deadlines are unlikely to be achieved
Programme over runs so not completed ahead of the Commonwealth Games (CWG)	Programme design includes contingency but also allow for works to be halted at suitable points until after the CWG if delays mean that over run is likely. Works to be phased pre and post games.

## 7 Compliance Issues:

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

7.1.1 The Southside Public Realm project supports the outcomes as shown in Appendix A, section B1 as set out in the City Council Plan 2018-2022 and updated in 2019. The project also aligns with the Birmingham Development Plan and the GBSLEP Strategy for Growth, Strategic Economic Plan.

7.1.2 The project will support the Council's actions to improve air quality through enhancing the pedestrian environment and making the area more desirable for cycling and walking whilst also making the area less desirable for vehicles. An Air Quality Assessment has been undertaken. The assessment indicates a very low risk of significant changes to the exposure of people to air pollutants occurring as a result of the Southside

Public Realm improvements, no changes to the design of the development are considered necessary based on air quality grounds. The recommendation from the specialist decision is not to undertake post completion monitoring of the air quality within this study area, as it would not add any information of value with respect to air quality.

7.1.3 Birmingham Clean Air Strategy (2019 emerging). The scheme will work in conjunction with the class D Clean Air Zone (CAZ) being implemented within the A4540 Middleway. It will:

- Contribute towards a reduction in car usage – reducing emissions and improve health
- Improve the wider transport network whilst increasing the range of cleaner, sustainable and active travel modes
- Invest in the public transport network to encourage more people to shift from private vehicles.

7.1.3 Air Quality Assessment has been undertaken and attached in Appendix F.

7.1.4 Birmingham Business Charter for Social Responsibility (BBC4SR)

nmcn Plc is a certified signatory to the BBC4SR and has committed actions proportionate to the value of this contract. The action plan will be implemented and monitored during the contract period.

The headline commitments to be delivered during the contract are as follows:

- 2 new full-time jobs created.
- 1 apprenticeship.
- 2 summer placements for University of Birmingham students.
- 100 hours of mentoring and volunteering activities.
- 10% of spend with local Small and Medium Enterprises.
- Payment of Real Living Wage.

## 7.2 Legal Implications

7.2.1 Under Section 13 of the Planning and Compulsory Purchase Act 2004 the City Council must keep under review the matters which may be expected to affect the development of their area or the planning of its development. These matters include, inter alia, the principal physical, economic, social and environmental characteristics of the area of the City Council, the communications, transport system and traffic of the area and any other considerations which may be expected to affect those matters. The matters also include any changes which the City Council think may occur in relation to any other matter and the effect such changes are likely to have on the development of the City Council's area or the planning of such development.

- 7.2.2 The City Council in carrying out transportation, highway and infrastructure related work will do so under the relevant primary legislation comprising the Town and Country Planning Act 1990, Highways Act 1980, Road Traffic Act 1974, Road Traffic Regulation Act 1984, Traffic Management Act 2004, Traffic Act 2000, and other related regulations, instructions, directives, and general guidance.
- 7.2.3 Section 1 of the Localism Act 2011 contains the City Council's general power of competence, which is limited only to the extent of any pre-existing limitations which applied prior to its enactment and to the extent of any specific disapplication of the power by any subsequent enactment, and Section 111 of the Local Government Act 1972 contains the Council's ancillary financial and expenditure powers in relation to the discharge of its functions.
- 7.2.4 The information in the Exempt Appendix J is commercially sensitive with regard to the tender evaluation process. Exempt information 12A of the Local Government Act 1972 (as amended) 3. Information relating to the financial or business affairs of any particular person (including the council). It is in the public interest not to disclose the information in the exempt appendix as it contains commercially sensitive information of a financial or business nature, which if disclosed to the public could be prejudicial to a named person, individual or company.

### **7.3 Financial Implications**

- 7.3.1 The total estimated capital cost for the delivery of the project is £9.528m. This will be funded from GBSLEP Enterprise Zone (EZ) funding of £8.725m, (£0.692m EZ funding already secured), £0.365m third party funding and £0.438m Section 106 monies. Both the overall estimated capital cost of the scheme and the associated funding has changed since the original OBC approved in March 2020 and these movements are explained below in 7.3.2.
- 7.3.2 On 11<sup>th</sup> December 2019 GBSLEP approved the OBC for Southside Public Realm Improvement Scheme at a total estimated capital cost of £8.177m and provisionally allocated £7.268m of EZ funding (of which £0.692m was secured and £6.576m was subject to final FBC submission). Following the outcome of the works procurement tender process, the total estimated capital cost of the scheme has increased by £1.351m to £9.528m and in addition, funding assumed from other sources has reduced by £0.106m resulting in a funding gap of £1.457m. To address this gap an updated request for £8.033m (£6.576m plus £1.457m) EZ funding was submitted to the GBSLEP and approved on 3<sup>rd</sup> February 2021 by GBSLEP Programme Delivery Board. This is now subject to GBSLEP Supervisory Board final approval. These movements are shown in the table below:

	<b>OBC</b>	<b>FBC</b>	<b>Mvt</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>
<b>Capital Cost</b>	8.177	9.528	1.351
<b>Funding</b>			
EZ Approved	(0.692)	(0.692)	0.000
EZ Subject to Approval	(6.576)	(8.033)	(1.457)
<b>Total EZ</b>	(7.268)	(8.725)	(1.457)
S106	(0.459)	(0.438)	0.021
Third Party Partners	(0.450)	(0.365)	0.085
<b>Total Funding</b>	<b>(8.177)</b>	<b>(9.528)</b>	<b>(1.351)</b>

- 7.3.3 Within the EZ all business rates are collected by the City Council with any net uplift in the business rates collected within the zone allocated to the GBSLEP for a period to 31<sup>st</sup> March 2046. It is the GBSLEP Executive who reviews how and where these funds are deployed and make recommendations on investment decisions over the resource in line with the investment plans for the EZ, subject to the City Council in its Accountable Body role for the EZ ensuring compliance with its own governance principles.
- 7.3.4 In its Accountable Body role, the City Council will undertake prudential borrowing to support delivery of the Southside Public Realm Improvement Scheme generated through the uplift in business rates within the EZ. There are financial risks associated with the Accountable Body role, the main one being failure of the EZ to deliver sufficient business rates uplift to cover the level of borrowing and up-front revenue expenditure incurred by the City Council. These risks have and will continue to be managed primarily through detailed financial modelling and by receiving, for independent examination/approval, detailed individual business cases for project expenditure.
- 7.3.5 The current EZ financial modelling includes this scheme and shows the cost is considered affordable based on the expected and additional income levels that the EZ will generate.
- 7.3.6 The availability and eligibility of the use of the Section 106 contributions of £0.438m has been confirmed with the Planning Contributions Team.
- 7.3.7 Third party funding contributions totalling £0.365m have been secured. Approval to accept the funding and enter into funding agreements is sought as part of this report. Funding letters are attached in Appendix C.

## **Revenue Implications**

7.3.8 This project will both remove and create assets that will form part of the highway upon completion of the project; as such they will be maintained within the overall highway maintenance regime. The estimated reduction in highway maintenance cost is £5,905 per annum including a contingency provision (25%) and inflation indexation. As part of the City Council's obligations under the Highway Maintenance and Management Private Finance Initiative (HMMPFI) contract, Highways have been formally notified of the proposed changes to the highway inventory arising from this scheme. The works relate to SSD number 5486.

#### **7.4 Procurement Implications**

7.4.1 The outcome of the procurement process is detailed in Appendix G.

7.4.2 The Procurement strategy for the Southside Public Realm Scheme was approved in the Delegated Procurement Strategy Report dated 10<sup>th</sup> August 2020.

7.4.3 The contract will be managed by the Transport Delivery Manager.

#### **7.5 Human Resource Implications**

7.5.1 The project is being resourced by existing internal staff supported by external advisors through existing approved contractual arrangements.

#### **7.6 Public Sector Equality Duty**

7.6.1 Project specific Equality Impact Assessment (EQUA466) was carried out and is available in Appendix H.

7.6.2 This found that this report does not have any adverse impact on the 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: Full Business Case Document

Appendix B: Scheme Plans

Appendix C: Funding Letters

Appendix D: Consultation Report

Appendix E: Risk Register

Appendix F: Air Quality Assessment

Appendix G: Procurement Process

Appendix H: Equality Impact Assessment

Appendix I: Programme

Exempt Appendix J

## **9 Background Documents**

- Outline Business Case – Southside Public Realm Improvement Scheme report to Cabinet 17<sup>th</sup> March 2020.
- Southside Phase 2 Full Business Case dated 20<sup>th</sup> July 2017
- Big City Plan in 2011
- Enterprise Zone Investment Plan dated May 2019