

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>CABINET</b>
<b>Report of:</b>	<b>STRATEGIC DIRECTOR FOR ECONOMY</b>
<b>Date of Decision:</b>	<b>11<sup>th</sup> January 2017</b>
<b>SUBJECT:</b>	<b>ASHTED CIRCUS – FULL BUSINESS CASE AND CONTRACT AWARD</b>
<b>Key Decision: Yes</b>	<b>Relevant Forward Plan Ref: 000312/2015</b>
<b>If not in the Forward Plan: (please "X" box)</b>	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
<b>Relevant Cabinet Member(s):</b>	<b>Councillor Stewart Stacey – Cabinet Member for Transport and Roads</b> <b>Councillor Majid Mahmood – Cabinet Member for Value for Money and Efficiency</b>
<b>Relevant O&amp;S Chairman:</b>	<b>Councillor Zafar Iqbal – Economy, Skills and Transport</b> <b>Councillor Mohammed Aikhlaq – Corporate Resources and Governance</b>
<b>Wards affected:</b>	<b>Nechells</b>

<b>1. Purpose of report:</b>	
1.1	To seek approval to the Full Business Case (FBC) for the Ashted Circus project at a total cost of £8.1m. 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, reducing congestion, improving road safety and providing additional highway capacity.
1.2	To seek approval to enter into a funding agreement and accept £1.998m of Enterprise Zone funding from the Greater Birmingham & Solihull Local Enterprise Partnership (GBSLEP).
1.3	To seek approval to enter into a funding agreement and accept £5.545m of Local Growth Fund grant funding from the GBSLEP.
1.4	The accompanying private report contains confidential market information and seeks approval to place orders for the works.

<b>2. Decision(s) recommended:</b>	
2.1	That Cabinet,  Notes this report.

<b>Lead Contact Officer(s):</b>	Varinder Raulia – Head of Infrastructure Projects 0121 303 7363
<b>Telephone No: E-mail address:</b>	<a href="mailto:varinder.raulia@birmingham.gov.uk">varinder.raulia@birmingham.gov.uk</a>

<b>3. Consultation</b>	
3.1	<u>Internal</u>
3.1.1	Ward Councillors for the affected ward together with the MP for Ladywood, the District Committee Chair and 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 and Democratic Services have been involved in the preparation of this report.
3.1.3	The Director of Highways and Infrastructure has been consulted and his comments are given in Appendix D.
3.2	<u>External</u>
3.2.1	A public consultation exercise, including highway users passing through the junction, was carried out during February 2015 and the results are given in Appendix D.
3.2.2	Transport for West Midlands (TfWM), 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.

4. Compliance Issues:																													
4.1	<u>Are the recommended decisions consistent with the Council’s policies, plans and strategies?</u>																												
4.1.1	The Ashted Circus scheme fully supports the primary objectives as set out in the City Council’s Business Plan and Budget 2016+. The proposal contributes to a strong economy through investment in transport infrastructure that supports new developments being built in Birmingham. It also aligns with the GBSLEP Strategy for Growth, Strategic Economic Plan.																												
4.1.2	The project support the targets and objectives of the Local Transport Plan 3, 2011-2026, specifically those targets around reducing congestion, improving road safety, improving the highway network and improving air quality.																												
4.1.3	Birmingham Business Charter for Social Responsibility - The recommended contractor is a certified signatory to the Charter and has provided commitments proportionate to the value of this contract that will be included in their action plan. These actions will be monitored and managed throughout the contract period.																												
4.2	<u>Financial Implications</u>																												
4.2.1	The estimated capital cost of the Ashted Circus Project is £8.1m (including works, contingency, statutory undertaker’s diversions and fees). The Project cost and funding has changed from that reported at PDD stage and is shown in Table 1.																												
	<table><tr><th><u>Table 1: Funding (Capital)</u></th><th>Funding at PDD (March 2015)</th><th>Current Funding Requirement</th><th>Difference</th></tr><tr><td>Local Growth Fund (LGF)</td><td>£4.070m</td><td>£5.545m</td><td>+£1.475m</td></tr><tr><td>Integrated Transport Block (ITB)</td><td>£2.073m</td><td>£0.003m</td><td>-£2.070m</td></tr><tr><td>DfT Local Pinch Points Fund (LPPF)</td><td>£0.180m</td><td>£0.254m</td><td>+£0.074m</td></tr><tr><td>Enterprise Zone</td><td>£0.300m</td><td>£2.298m</td><td>+£1.998m</td></tr><tr><td>Section 106</td><td>£0.050m</td><td>£0</td><td>-£0.050m</td></tr><tr><td><b>Funding Total</b></td><td><b>£6.673m</b></td><td><b>£8.100m</b></td><td><b>+£1.427m</b></td></tr></table>	<u>Table 1: Funding (Capital)</u>	Funding at PDD (March 2015)	Current Funding Requirement	Difference	Local Growth Fund (LGF)	£4.070m	£5.545m	+£1.475m	Integrated Transport Block (ITB)	£2.073m	£0.003m	-£2.070m	DfT Local Pinch Points Fund (LPPF)	£0.180m	£0.254m	+£0.074m	Enterprise Zone	£0.300m	£2.298m	+£1.998m	Section 106	£0.050m	£0	-£0.050m	<b>Funding Total</b>	<b>£6.673m</b>	<b>£8.100m</b>	<b>+£1.427m</b>
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4.2.2	In September 2016 a revised funding strategy was agreed to meet the City Council’s local contribution commitments to Ashted Circus and Iron Lane Local Growth Fund Projects. The strategy reallocates TfWM, EZ, and ITB resources across certain projects within the Transportation and Highways Capital Programme to support the delivery of Ashted Circus and Iron Lane. The additional EZ funding of £1.998m for Ashted Circus was approved by the EZ Executive Board 17th November 2016.																												

4.2.3	The additional funding of £1.998m from the GBSLEP is consistent with the Enterprise Zone Investment Plan (EZIP) approved by Cabinet on the 20th September 2016. The period of prudential borrowing made by the council as Accountable Body will be linked to the maximum life of the EZ, in accordance with the Council's debt repayment policy for the EZ. The prudential borrowing can be funded from the uplift in business rates within the EZ and in doing so will comply with the financial principles in relation to the EZIP which were detailed in the report to Cabinet on 20th September 2016. Revenue costs associated with the borrowing will be repaid through the business rates uplift.
4.2.4	The Business Case for Local Growth Fund allocation of £5.545m is expected to be approved by the GBSLEP in December 2016.
4.2.5	The reasons for the increase in the project cost estimate compared to the previously approved Project Definition Document are given in 5.6 below.
4.2.6	The Ashted Circus project 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 £29,939 pa (full year 2019/20). This additional cost will be funded from the provision for Highways Maintenance held within Corporate Policy contingency.
4.2.7	A risk management assessment has been undertaken and is included in Appendix C.
4.3	<u>Legal Implications</u>
4.3.1	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.
4.4	<u>Public Sector Equality Duty (see separate guidance note)</u>
4.4.1	In November 2015 an analysis of the Effects of Equality was undertaken for Ashted Circus project and is attached as Appendix B to this report.

<b>5.</b>	<b>Relevant background/chronology of key events:</b>
5.1	In June 2013 the Department for Transport (DfT) approved the allocation of £3.900m Local Pinch Point Fund (LPPF) to the City Council's Ring Road Package.
5.2	The City's Ring Road plays a vital role in providing access to the city centre, with improvements required to reduce congestion and accommodate key developments proposed as part of the Enterprise Zone. Improvements on the Ring Road at Holloway Circus, Ashted Circus, Curzon Circus, Bordesley Circus and Haden Circus were identified to support economic growth. The project deliverables will both support and protect the City's growth objectives in terms of enabling access to key development sites, reducing congestion, improving road safety and providing additional highway capacity. The project, together with the other improvements on the ring road, will support the creation of up to 40,000 new jobs within the Enterprise Zone. The FBC covering the improvements at Holloway Circus, Curzon Circus, Bordesley Circus and Haden Circus was approved by Cabinet on 15th September 2014.

5.3	<p>In Autumn 2013 a Consultant was appointed to undertake outline design activities and produce an Options Appraisal Report for the Ashted Circus Project. This work showed that the design solution for Ashted Circus that was put forward at the bid stage for Local Pinch Points Fund (LPPF) would not deliver the required traffic benefits to support economic growth. The proposal at the bid stage was to add left turn slip lanes on the Dartmouth Middleway approaches to increase traffic capacity and was costed at £0.9m. The options appraisal study identified significant structural works would be required to implement this solution, it would also impact on adjoining private land and buildings and incur significantly higher costs than allowed for in the bid estimate, without any significant traffic benefits.</p>
5.4	<p>A further option was explored to replace the existing roundabout with a traffic signal junction. It is proposed to take forward the traffic signal junction layout as it will provide the traffic benefits to support economic growth and also offer scope for traffic flow management (through 'linking' the traffic signals) along the ring road between Dartmouth Middleway and Bordesley Circus. The cost of the traffic signal junction scheme is estimated at £8.100m.</p>
5.5	<p>The PDD for Ashted Circus, approved by Cabinet 16th March 2015, approved development fees up to Full Business Case stage of £480,000. Approval is now sought to increase the development fee to £530,000, which was the revised total for the work that was required to develop this proposal to FBC stage.</p>
5.6	<p>At the PDD stage the project cost estimate was £6.673m. The cost was reviewed in early 2016. Based on experience of recent project delivery costs it was considered that the level of cost provision and contingency for the significant temporary traffic management works and construction interface with the works of statutory undertakers was not sufficient. The project cost estimate was adjusted to £8.1m following the review. A breakdown of the cost is given in the Private Report.</p>
5.7	<p>The increase in the scope of work led to the submission of a LGF bid to the GBSLEP seeking the additional funding required. On the 7th July 2014 the GBSLEP announced the Growth Deal with a £4.07m LGF allocation towards Ashted Circus. In May 2016, to fund the increase in the project cost an additional £1.475m LGF was requested from GBSLEP and this was approved on 27th May. This additional allocation will provide a maximum capped total funding contribution of £5.545m and is subject to the approval of the Business Case which is expected December 2016.</p>
5.8	<p>The proposed project at Ashted Circus is fully detailed in Appendix A and shown on the drawing in Appendix E. Below is a brief overview of the proposals:</p> <ul style="list-style-type: none"> <li>• Converting the roundabout to a signalised cross road junction and filling the central island of the roundabout, removal of pedestrian subways and approach ramps;</li> <li>• Providing at-grade footway, signal controlled toucan crossings and right turn only lanes on all the four arms of the junction. Prohibiting U-Turns at the junction;</li> <li>• The bus lanes on the Jennens Road and Nechells Parkway approaches to the junction will be modified to suit the new junction layout. The new traffic signals will be designed and optimised to improve bus journey times through the junction;</li> <li>• Providing cycle lanes on B4114 Jennens Road (inbound and outbound) and on A47 Nechells Parkway (inbound);</li> </ul>

	<ul style="list-style-type: none"> <li>• Providing unsegregated shared use footway/cycleway to connect to the existing advisory cycle routes, including an unsegregated shared use footway/cycleway on the A47 Nechells Parkway outbound;</li> <li>• Providing double yellow lines at Windsor Street South/ Nechells Parkway Junction;</li> <li>• Removal of non-pay parking bay on A47 Nechells Parkway;</li> <li>• Removal of approximately 100 trees from areas around the junction;</li> <li>• Providing for the planting of 200 trees in the new verge and other areas in the locality, together with other landscaping.</li> </ul>
5.9	The appointment of the Design and Construct Contractor to undertake the works was effected using the Council's Highways and Infrastructure Works Framework 2014 to 2018 Lot 4 (Works £500,000+). The process carried out to award a contract is detailed in the attached FBC.
5.10	The tendered price of the recommended contractor is within the pre tender works cost estimate. The results of the tender process are presented in the Private Report. The procurement process was for a design and build 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 the Council are unable to agree a price with the recommended contractor for the works element, the Council will own the design but will have to re-tender the works element as a separate contract.
5.11	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 removed trees will be replaced in the locality on a 2 for 1 basis in consultation with the Ward Councillors. The removal of trees/bushes is programmed for January to April 2017 in advance of the main contract work, at the same time it is proposed to plant some of the new trees in the locality. The completion of the tree planting will be undertaken in the following two planting seasons as set out in 5.14 below. The appointed landscape contractor will undertake the tree removal works in accordance with the specification set out in the Framework Agreement, temporary traffic management will be provided as necessary for works alongside live traffic lanes. The trees 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..
5.12	A Tree Survey was undertaken in May 2016. Seven London Plane trees have been identified as 'Class A' trees which should be considered for transplanting. These trees are located within the Ashted Circus roundabout which makes access difficult with a tree spade (lorry mounted). London Planes of this size and quality can be purchased relatively easily, therefore the cost to transplant these and subsequent maintenance may be prohibitive compared to comparative purchase and maintenance of new trees. The transplanting of these seven trees is to be explored further with the appointed Landscape Contractor.
5.13	Approvals are now sought, subject to the approval of funding, to the FBC for the Ashted Circus Project and to award a contract for the Design and Construction of Ashted Circus. 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 / tree removal works to the Assistant Director Transportation and Connectivity.

5.14	<p>The delivery programme for Ashted Circus is as follows:</p> <ul style="list-style-type: none"> <li>• Appointment of Landscape Contractor: January 2017.</li> <li>• Appointment of Design and Construct Contractor: January 2017.</li> <li>• Design start: January 2017.</li> <li>• Commence tree removal and planting of new trees (in the vicinity but away from the junction): January 2017 to April 2017.</li> <li>• Construction start (engineering works): August 2017.</li> <li>• Continue with planting new trees in the vicinity but away from the junction: October 2017 to April 2018.</li> <li>• Construction finish (engineering works): July 2018.</li> <li>• Complete landscaping and tree planting at the junction: October 2018 to April 2019.</li> </ul>
5.15	<p>The construction works will result in some disruption to road users and businesses / residents in the locality. The constraints for working on the carriageway as stated in the tender prohibit lane closures during the daytime. 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.</p>
5.16	<p>HS2 highway proposals in this area include the replacement of Curzon Circle and Garrison Lane roundabouts with traffic signal junctions. No firm delivery programmes for these works have been provided by HS2. The City Council will continue to pursue delivery programmes from HS2 in order that implementation of all works can be coordinated to minimise impact on highway users.</p>

<b>6. Evaluation of alternative option(s):</b>	
6.1	<p>A study of alternative options at Ashted Circus was undertaken by an external consultant in 2013 and an options appraisal report was submitted to the Project Manager in February 2014. Further development work was commissioned and in March 2014 a preferred junction layout at Ashted Circus was identified (as detailed in this FBC) on the basis of providing additional traffic capacity to support economic growth and value for money. The options for Ashted Circus were reported in the 'LPPF Ring Road Package Update and Full Business Case Phase One' report to Cabinet on 15<sup>th</sup> September 2014.</p>

<b>7. Reasons for Decision(s):</b>	
7.1	<p>To enable the proposed Ashted Circus project to progress, through the appointment of contractors to undertake the implementation of the traffic signal junction works, landscaping works (including tree removal) and detailed design.</p>

<b>Signatures</b>	<b>Date</b>
<p>Councillor Stewart Stacey Cabinet Member for Transport and Roads</p> <p>.....</p>	<p>.....</p>
<p>Councillor Majid Mahmood Cabinet Member for Value for Money and Efficiency</p> <p>.....</p>	<p>.....</p>
<p>Waheed Nazir Strategic Director for Economy</p> <p>.....</p>	<p>.....</p>

**List of Background Documents used to compile this Report:**

1. Local Pinch Points Fund – Bid Submission Project Definition Document – Report of the Strategic Director of Development and Culture to Cabinet 11<sup>th</sup> February 2013.
2. Local Pinch Points Fund Ring Road Package Update and Full Business Case Phase One – Report of the Deputy Chief Executive, Economy Directorate 15<sup>th</sup> September 2014.
3. Local Growth Fund Transport and Connectivity Projects Project Definition Document - Report of the Deputy Chief Executive to Cabinet 16<sup>th</sup> March 2015
4. Updated Transportation & Highways Capital Funding Strategy 2015/16 - 2020/21 Programme Definition Document – Report of the Strategic Director for Economy 16<sup>th</sup> Feb 2016.

**List of Appendices accompanying this Report (if any):**

1. Appendix A – Full Business Case
2. Appendix B - Equality Assessment Ref: EA000676
3. Appendix C – Risk Management Assessment
4. Appendix D – Consultation Summary
5. Appendix E – E1 Scheme Plan, Drawing Number CA-02569-S1-102, Rev C; E2 Parallel Cycle Route Plan and Drawing Number CA-02569-S1-006 Rev A

<b>Report Version</b>	<b>25</b>	<b>Dated</b>	<b>21/12/16</b>
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## **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"><li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;</li><li>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li><li>(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li></ul>
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"><li>(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</li><li>(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;</li><li>(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.</li></ul>
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"><li>(a) tackle prejudice, and</li><li>(b) promote understanding.</li></ul>
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"><li>(a) age</li><li>(b) disability</li><li>(c) gender reassignment</li><li>(d) pregnancy and maternity</li><li>(e) race</li><li>(f) religion or belief</li><li>(g) sex</li><li>(h) sexual orientation</li></ul>