

**BIRMINGHAM CITY COUNCIL****PUBLIC REPORT**

<b>Report to:</b>	<b>CABINET</b>
<b>Report of:</b>	<b>CORPORATE DIRECTOR, ECONOMY</b>
<b>Date of Decision:</b>	<b>27th June 2017</b>
<b>SUBJECT:</b>	<b>BATTERY WAY EXTENSION LOCAL GROWTH FUND IMPROVEMENTS – REVISED FINANCIAL APPRAISAL</b>
<b>Key Decision: Yes</b>	<b>Relevant Forward Plan Ref: 003555/2017</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 Members:</b>	<b>Councillor Stewart Stacey - Transport and Roads</b> <b>Councillor Majid Mahmood –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>Acocks Green, South Yardley &amp; Springfield</b>

<b>1. Purpose of report:</b>
1.1 To seek approval to the revised Financial Appraisal and procurement strategy for the Battery Way Extension Local Growth Fund Improvements Project.
1.2 The accompanying private report contains confidential market information and seeks approval to place orders for the works.

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

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

<b>3. Consultation</b>
<p>3.1 <u>Internal</u></p> <p>3.1.1 Consultation with the Acocks Green, South Yardley and Springfield Ward Councillors, the District Committee Chairs for (Hall Green and Yardley Districts) and the MPs for Hall Green and Yardley and Officers within Highways and Transportation and Connectivity is as outlined in the Full Business Case (FBC) reported to Cabinet on 26<sup>th</sup> July 2016.</p> <p>3.1.2 Legal and Democratic Services, Procurement and City Finance have been involved in the preparation of this report.</p> <p>3.2 <u>External</u></p> <p>3.2.1 Consultation with external parties is as outlined in the FBC reported to Cabinet on 26<sup>th</sup> July 2016.</p>
<b>4. Compliance Issues:</b>
<p>4.1 <u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></p> <p>4.1.1 The Battery Way Extension scheme fully supports the Council's primary objectives, specifically the creation of "Jobs and Skills" through investment in transport infrastructure and improved connectivity that supports new developments being built in Birmingham. It also aligns with the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Strategy for Growth, Strategic Economic Plan.</p> <p>4.1.2 Birmingham Business Charter for Social Responsibility</p> <p>Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of this contract. The framework providers that will be invited to tender are all certified signatories to the charter. Tenderers will submit additional actions which support the local economy and create much needed jobs and apprenticeships 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.</p> <p>4.2 <u>Financial Implications</u></p> <p>4.2.1 The approved cost of the project as reported in the 26<sup>th</sup> July 2016 FBC to Cabinet was £4.024m.</p> <p>4.2.2 The current cost estimate is £6.453m, the reasons for the increase are given in section 5.6 of this report. The cost increase of £2.429m will be funded from (i) £2.000m Prudential Borrowing and (ii) £0.429m Section 106 (2011/06776/PA (2015/00027/LA)). The call on the Section 106 funding will only be made once all other funds have been expended. Details of the funding strategy were given in the Updated Transportation and Highways Funding Strategy 2017/18 to 2022/23 Project Definition Report approved by Cabinet 16<sup>th</sup> May 2017. The cost of the Prudential Borrowing is £174,000 per annum over a 15 year period which will be funded from the forecast net Bus Lane Enforcement surplus.</p> <p>4.2.3 This scheme will create assets that will form part of the highway upon completion of the works; as such they will be maintained within the overall highway maintenance regime. The estimated net cost of including these newly created assets within the highway maintenance regime is £49,000 per year (including energy costs). This cost will be funded from the provision for Highways Maintenance held within the Corporate Policy contingency.</p> <p>4.2.4 A risk management schedule is attached as Appendix A.</p>

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, Local Government Act 1972, 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	An Equality Analysis was carried out in line with the City Council's procedures in order to identify the potential adverse impacts of the Battery Way Extension project. The Equality Analysis Ref. EA000509 was attached to the FBC approved by Cabinet 8 <sup>th</sup> December 2015.
4.4.2	An Equality Analysis has been undertaken for Local Growth Fund Transport and Connectivity Projects: Project Definition Document (PDD). Equality Analysis Ref EA000548 and was attached to the PDD approved by Cabinet 16 <sup>th</sup> March 2015.
<b>5.</b>	<b><u>Relevant background/chronology of key events:</u></b>
5.1	On 7th July 2014 the Government announced the outcome of the 39 Growth Deals to Local Enterprise Partnerships. The GBSLEP has secured £357.4m to fund economic growth in the area with £38.7m of new funding confirmed for 2015/16 and £58.5m for 2016/17 to 2021. Battery Way Extension Project is one of the Growth schemes.
5.2	The Battery Way Extension Project will facilitate the development of the adjacent land. The developer has secured outline planning consent for up to 360,000 sq ft of industrial and distribution warehouse accommodation with the potential to create 700 new jobs.
5.3	On 16th March 2015, Cabinet approved the PDD for the Local Growth Fund Transport and Connectivity Projects. This report allocated £0.1m to Battery Way Extension to develop the Project to FBC.
5.4	In August 2015 and May 2016 the GBSLEP gave approval to the release of £2.460m and £1.250m of Local Growth Fund respectively.
5.5	On 26th July 2016 Cabinet approved the Battery Way Extension Full Business Case with a budget allocation of £4.024m.
5.6	<p>The current cost estimate is £6.453m, the adjusted estimate reflects the current 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 £6.453m. The reasons for the cost increase are as follows;</p> <ul style="list-style-type: none"> <li>i. Earthworks – in autumn 2016 a comprehensive site investigation along the line of the new road was undertaken. There is made ground at the northern end of the site up to 16m deep. In addition there is contaminated ground, the likely presence of ground gases beneath the concrete floor slabs and a high risk of unexploded ordnance on this site. In order to provide the optimum 'groundwork's' solution the expertise of a contractor is to be utilised through a Design and Construct Contract. It is considered prudent to make a further provision of £0.806m in the works cost estimate to cover this extensive groundworks operation.</li> </ul>

- 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 around the earthworks) it is considered necessary to increase the contingency provision to 20% and provide a 'risk pot'. The combined effect results in a cost increase of £1.158m.
- iii Demolition – The tenders for the demolition of the property at 152 Reddings Lane came back higher than the budget provision. The demolition works were completed in May 2017. The cost increase is £0.054m.
- iv Fees – The interface with third party land/property owners has been more extensive than envisaged including dealing with illegal occupation of land required for the road, attracting higher Legal, Birmingham Property Services and Project Management fees. The road alignment was changed which reduced the acquisition of private land interests at a particular location from fifteen to one, this action removed the need for a Compulsory Purchase Order (CPO) and possible Public Inquiry. While this action has resulted in a significant increase in fees it has removed completely the risk of challenge to a CPO and therefore delivery of the road. In addition further Contract Management fees have been allowed to take the project through the Design and Construct process and for the management of construction risks. The net increase in fees is £0.367m.
- v Landscape Works – an inflation provision has been applied to the original cost estimate resulting in a cost increase of £0.044m (works + contingency).

## 5.7 Procurement Strategy (Works)

5.7.1 The works will be procured using the Council's Highways and Infrastructure Works framework agreement. Due to the complexities of the scheme, particularly the very significant risks in constructing the road across poor ground, and to mitigate any potential increase in costs or programme delays during the construction stage, a robust market engagement process is being undertaken with the five Lot 4 framework contractors. The market engagement consists of:

- A briefing meeting to understand the project requirements, design, risks and constraints
- Site visits as required
- Individual meetings with regard to specific technical issues
- Opportunity to review and comment upon the design prepared by the project consultants

The framework contractors will have the opportunity to comment upon any of the proposed documentation and works information as it is drafted. However, the final decision will rest with the Council.

5.7.2 After the initial meetings and completion of the market engagement, a pre-selection process has been designed to identify and allow selection of two suitable contractors to submit tenders. Invitation to tender documentation will be sent to the two framework contractors to complete and return with the award of contract being made in July 2017.

5.7.3 The tender submissions will then be assessed against the framework model of 60% price, 30% quality and 10% social value using predetermined criteria. The process will be monitored by Corporate Procurement Services.

5.7.4 The proposed Procurement Strategy for the main works is further explained in the Private Report.

## **5.8 Procurement Strategy (Landscaping Works)**

5.8.1 The landscaping works will be procured using the Council's Landscape Construction Framework Agreement 2015 – 2019. The work will be procured in line with the framework agreement where the work is offered to the first ranked supplier (based on price) in the first instance. If this opportunity is declined, it will be offered to the second ranked supplier and so forth.

5.9 Authority is now sought through the Private Report to delegate to the Assistant Director, Transportation and Connectivity, the award of the main works contract together with placing orders for the diversion of statutory undertakers apparatus and appointing a contractor to undertake landscaping works all subject to the main works cost being within the revised cost estimate.

5.10 It is necessary to seek approval to this Revised Financial Appraisal prior to completing the evaluation of tenders in order to avoid a 3 month slippage in the programme and consequential delay to bringing forward the 360,000 sq ft of industrial and distribution development on the adjoining land.

5.11 The proposed delivery programme for Battery Way Extension is as follows:

- Demolition of 152 Reddings Lane: Completed May 2017
- Cabinet approval to Revised Financial Appraisal: June 2017
- Appoint Design and Construct Contractor : July 2017
- Commence Detailed Design: August 2017
- Complete Detailed Design – January 2018
- Construction start: March 2018
- Construction finish: February 2019

5.12 Approval is sought to a revised Financial Appraisal based on the revised project cost estimate and a revised procurement strategy for the Battery Way Extension Project.

## **6. Evaluation of alternative option(s):**

6.1 The revised Financial Appraisal and procurement strategy is not approved. If the revised Financial Appraisal is not approved the project will not proceed to construction and the benefits as set out in the FBC will not be realised.

## **7. Reasons for Decision(s):**

7.1 The approval of the revised Financial Appraisal and procurement strategy for the Battery Way Extension Project will allow orders to be placed and the highway works to progress to delivery stage.

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

<b>List of Background Documents used to compile this Report:</b>
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| <ol style="list-style-type: none"> <li>1 Local Growth Fund Transport and Connectivity Projects: Programme Definition Document – Report of the Deputy Chief Executive to Cabinet on 16<sup>th</sup> March 2015.</li> <li>2 GBSLEP Full Business Case for Battery Way Extension – June 2015</li> <li>3 Local Growth Fund Battery Way Extension Full Business Case – Report to Cabinet, 26th July 2016.</li> <li>4 Updated Transportation and Highways Funding Strategy 2017/18 to 2022/23 Project Definition Documents – Report to Cabinet 16<sup>th</sup> May 2017</li> </ol> |
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<b>List of Appendices accompanying this Report (if any):</b>
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| <ol style="list-style-type: none"> <li>1. Appendix A - Risk Management Assessment</li> </ol> |
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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) Marriage &amp; civil partnership</li><li>(b) Age</li><li>(c) Disability</li><li>(d) Gender reassignment</li><li>(e) Pregnancy and maternity</li><li>(f) Race</li><li>(g) Religion or belief</li><li>(h) Sex</li><li>(i) Sexual orientation</li></ul>