

Birmingham City Council

Report to Cabinet

16 March 2021



Subject: A457 Dudley Road Improvement Revised Scheme – Western Road Junction Full Business Case

Report of: Acting Director, Inclusive Growth

Relevant Cabinet Member: 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

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Soho & Jewellery Quarter, Ladywood and North Edgbaston		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 008401/2021		
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

1 Executive Summary

- 1.1 To seek approval to the Full Business Case (FBC) for Dudley Road Improvement Revised Scheme – Western Road Junction as Phase 1 Advanced Works at a revised estimated capital cost of £5.100m, an increase of £1.695m on the cost approved in the Outline Business Case (OBC) for the Dudley Road Improvement Revised Scheme on 10th November 2020. The increase in scheme costs are due to further investigative works and refinement of the detailed design of the scheme giving more robust cost estimate, and this is contained within the approved cost of the Revised Scheme estimated at £29.935m

- 1.2 This report relates specifically to the Western Road Phase 1 Advanced Works element of the Revised Scheme. A separate update report on the same Cabinet agenda, will cover the other 2 elements of the scheme (developing a shelf ready scheme and delivery of the main scheme).
- 1.3 This element specifically supports the Soho Loop Development which obtained Full Planning Approval on 20th January 2020, helping delivery of the city's wider aspirations linked to the A457 Dudley Road Revised improvement Scheme.
- 1.4 The Western Road Junction Phase 1 Advanced Works provide improvements for public transport, pedestrians and cyclists to align with the Emergency Transport Plan and Active Travel Plan introduced following Covid-19 and aspires towards the longer-term priorities of the City Council in terms of sustainable transport and working towards net zero carbon by 2030.
- 1.5 The Western Road Junction was included to an extent as part of the original Dudley Road Improvement Project Definition Document (PDD). Within the Revised Scheme the junction will facilitate access to the Soho Loop development site and deliver the wider junction improvements of the proposed scheme. There is an opportunity to bring forward the junction improvements as Phase 1 Advanced Works which will enable development occupation, avoid abortive work and save associated costs of delivery. Progression, using the existing design and works contract approved by Cabinet on 26th June 2018, will be subject to a Section 278 of the Highways Act 1980 Agreement with the Soho Loop developers and a developer's contribution of £1.800m being agreed. GBSLEP funding of £0.979m is being used to part fund the scheme but City Council funding of £2.321m will also be required to cover the difference between the developer's scheme and the wider revised junction improvement scheme, funded from Prudential Borrowing (PB)

2 Recommendations

- 2.1 Approves the Full Business Case (FBC) for the Dudley Road Improvement Revised Scheme - Western Road Junction Phase 1 Advanced Works at a total estimated capital cost of £5.100m, as detailed in Appendix A and shown on the scheme plan in Appendix D, noting that this is in line with the preferred option approved by Cabinet in the OBC for the Dudley Road Improvement Scheme on 10th November 2020.
- 2.2 Delegates authority to the Assistant Director Transport and Connectivity to place orders with the following statutory undertakers to enable utility diversions to take place subject to the works cost being within budget:
 - Western Power Distribution for electricity apparatus
 - BT for Openreach civils cables
 - Vodafone for telecommunications apparatus
 - Cadent for gas mains apparatus
 - Virgin Media for telecommunications and fibre optic cables

— Seven Trent for water and drainage

- 2.3 Delegates authority to the Assistant Director Transport and Connectivity to place orders with McPhilips Wellington Ltd under the current contract to deliver accommodations and demolition works for the MOT Garage, Windmill Public House and adjacent retail properties as previously outlined in the OBC approved on 10th November 2020 subject to the works cost being within budget.
- 2.4 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 Project Definition Document (PDD) for the overall Dudley Road Improvement Scheme was approved by Cabinet on 26th June 2018 with the following recommendations:
- Approved to progress the project to detailed design, consultation, and Full Business Case.
 - Delegated authority to the Assistant Director of Transport and Connectivity to procure, appoint and place orders with a design and build contractor to carry out Early Contractor Involvement, design development, construction planning and detailed design.
 - Authorised the submission of the funding bid to the DfT's Local Major Transport Portfolio Scheme.
 - Approved the making of a Compulsory Purchase Order (CPO) and a Side Roads Order (SRO) and to negotiate the acquisition of land/property in advance of confirmation of the orders.
 - Authorised the City Solicitor to advertise the loss of Public Open Space.
- 3.2 In light of the unexpected outbreak of Covid-19, delivery of the scheme was delayed. Furthermore, as a result of the need to introduce social distancing measures to combat the spread of the disease, the approval of the associated Emergency Transport Plan (ETP) and guidance from central government, a decision was made to undertake a review of the original scheme. A study to assess the feasibility of making significant changes to the scheme in-line with the ETP has been undertaken and following discussions with the DFT a Revised Scheme has been agreed.
- 3.3 As part of further consultation the Dudley Road Improvement Revised Scheme was presented to the Leader of the Council, Ward Councillors, the Cabinet Member for Transport and Environment and the NHS on the 6th July 2020, where all were in agreement that the Original Scheme be abandoned and the Revised Scheme be progressed. The Outline Business Case for the Revised Scheme was approved by Cabinet on 10th November 2020.

- 3.4 The Dudley Road Improvement Revised Scheme – Western Road Junction Phase 1 Advanced Works is an element of the Revised Scheme. There is an opportunity to bring forward the junction improvements as Phase 1 Advanced Works which will enable development occupation, avoid abortive work and save associated costs of delivery. The progression will be subject to a Section 278 of the Highways Act 1980 agreement with the Soho Loop developers and a developer's contribution of £1.800m being agreed.
- 3.5 The procurement process to secure a design and build contractor for the original scheme was carried out in 2018/19. A contractor was appointed on 5 November 2019 for the detailed design and construction with an option to terminate the contract at the end of the detailed design phase. Subject to approval of this report, it is proposed to utilise the existing contract to deliver the Western Road Junction Advance Works. Further detail of the procurement implications can be seen in section 7.4 below.

4 Options Considered and Recommended Proposal

- 4.1 The options for Dudley Road Improvement Revised Scheme – Western Road Junction Phase1 Advance Works are listed below.

Option 1 - Do Nothing (Soho Loop Developer to delivery their scheme)

Option 2 - Do Something (Revised Scheme Advanced Works delivered by the City Council)

- 4.2 Option 2 is the preferred option as it offers, on balance, the best value for money in meeting the requirements and it aligns with the Council's long-term objectives. Further details are provided in Appendix A.

5 Consultation

- 5.1 A full public consultation including stakeholders was undertaken on the Revised Scheme between 17th November 2020 and 15th December 2020 which included proposals for the Western Road element. 104 responses were received via BeHeard, e-mail and consultation events, which included cycling groups and other key stakeholders. Analysis of the consultation responses showed 61.01% either fully support the proposals or partially support the proposals subject to minor amendments. Details of feedback provided are in Appendix E.
- 5.2 As a result of the feedback received to the consultation some modifications to the scheme have been made as described in Section B5 of Appendix A.

6 Risk Management

- 6.1 Key Risks (The key risks and mitigation measures are detailed in Appendix B):
- Impact of coronavirus may cause third party delays due to lack of resource, lack of material availability with a consequential increase in project costs, and delay in programme. This will be mitigated by identifying the extent of

any delivery impacts across the scheme to gain an understanding of where delivery timescales can be reviewed/re-prioritised, in order to address any delays to procedures.

- Agreement of the S278 with the developer (Soho Loop) to enable the City Council to deliver the scheme;
- Meeting the developer long stop dates to ensure the developer can occupy the development; and
- Objections to Traffic Regulation Orders delay delivery.

6.2 Risks will be managed through bi-weekly progress meetings between the City Council and all stakeholders including the contractor.

6.3 Key Issue:

- The delivery of the Western Road Phase 1 Advanced Works only provides localised benefits, and the wider corridor are reliant on the approval and delivery of the A457 Dudley Road Improvement Revised Scheme.

7 Compliance Issues:

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

7.1.1 The proposals set out in this report will support the delivery of the Council Plan 2018-2022 (as updated in 2019), specifically:

- **Outcome 1 - An entrepreneurial city to learn, work and invest in,** particularly *'We will develop our transport infrastructure, keeping the city moving through walking, cycling and improved public transport'* and *'We will create opportunities for local people to develop skills and make the best of economic growth'*.
- **Outcome 4 – Birmingham is a great, clean and green city to live in,** particularly *'We will improve the environment and tackle air pollution'*.
- **Outcome 6 - Birmingham is a city that takes a leading role in tackling climate change,** particularly *'We will continue to deliver, report and positively promote the council's extensive climate change and carbon reduction activity, with additional initiatives undertaken in line with leading national and peer practice'*.

7.1.2 The scheme supports the Additional Climate Change Commitments including the aspiration for the City Council to be net zero carbon by 2030, as agreed by Cabinet on 30th July 2019, following the declaration of a Climate Change Emergency passed by full City Council on 11th June 2019.

7.1.3 The project also aligns with the Draft Birmingham Transport Plan, Birmingham Development Plan, Greater Birmingham and Solihull Local

Enterprise Partnership (GBSLEP) Strategy for Growth, Strategic Economic Plan, and the Movement for Growth 2026 Delivery Plan for Transport, the Birmingham Connected Transport Strategy and the Clean Air Strategy for the City of Birmingham - Draft

7.1.4 Birmingham Business Charter for Social Responsibility (BBC4SR):

Works

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions for the construction contract. McPhillips Wellington Ltd is a certified signatory to the BBC4SR and will provide additional actions proportionate to the value of the contract. These additional actions will include employment opportunities and be monitored and managed during the contract period.

7.2 Legal Implications

- 7.2.1 The City Council carries 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 Regulation Act 1984, Traffic Management Act 2004, Transport Act 2000, Countryside and Rights of Way Act 2000, and other related regulations, instructions, directives and general guidance. Consideration has also been given to Ministry of Housing, Communities and Local Government guidance dated February 2018 (updated July 2019) on Compulsory Purchase and also Department for Transport Circulars 1/97 and 2/97 in preparing the CPO and SRO.
- 7.2.2 The City Council's general power of competence, which is limited only to the extent of any pre-commencement restrictions on powers which overlap this power or any specific post commencement restrictions placed on this power, is contained in Section 1 of the Localism Act 2011. Section 111 of the Local Government Act 1972 contains the City Council's ancillary financial and expenditure powers in relation to the discharge of its functions.

7.3 Financial Implications

Capital Costs

- 7.3.1 The total estimated capital cost of the Western Road Junction Phase 1 Advanced Works is £5.100m. Whilst the cost has increased by £1.695m from the OBC, it is still contained within the total scheme cost of £29.935m, which is in line with the budget in the OBC approved by Cabinet on 10th November 2020. The option to deliver this element ahead of the main scheme will require identification of a s278 contribution from the Soho Loop development, An agreement in principle is in place for the developer to contribute £1.800m towards the cost of the scheme, and a draft S.278 Agreement has been agreed. It is envisaged the S.278 agreement will be

signed in March/April 2021 subject to Cabinet approval of this report. The remaining funding for the scheme is GBSLEP funding of £0.979m and City Council funding of £2.321m, funded from Prudential Borrowing (PB).

- 7.3.2 The following table summarises the expenditure profile and the associated funding:

	2020/21	2021/22	2022/23	Total
	£'000	£'000	£'000	£'000
CAPITAL EXPENDITURE				
Traffic Management		503	7	510
Risk Contingency		261	4	265
BCC Design, Management & Supervision Fees		355		355
Construction Works Costs		2,705	41	2,746
Statutory Undertakers	979		245	1,224
Total Capital Expenditure	979	3,824	297	5,100
CAPITAL FUNDING:				
Prudential Borrowing		2,024	297	2,321
Local Enterprise Partnership	979			979
Section 278 Contribution		1,800		1,800
Total Capital Funding	979	3,824	297	5,100

- 7.3.3 The estimated increase in costs of £1.695m over the cost in the approved OBC, follows a firming up of the statutory undertakers costs, further investigative works and refinement of the detailed design of the scheme giving more robust cost estimate and split across this Western Rd Junction element of the scheme and the Main scheme. In terms of the overall Dudley Road scheme position, this remains unchanged.
- 7.3.4 There have also been adjustments to the value, timing and mix of funding assumed in the OBC. To address the increase in costs a reallocation of £0.979m of GBSLEP funding has been agreed from the main scheme. In addition, to mitigate the remaining increase in costs and the accelerated scheme delivery (required to meet the Commonwealth Games deadline), PB of £0.716m has been switched from the main scheme and accelerated.

Finally, the estimated s278 contribution has reduced by £0.200m following negotiations and has been replaced with addition PB.

Revenue Implications

7.3.5 The table below shows the revenue implications of the proposed Western Rd Junction scheme and is further explained in sections 7.3.6 to 7.3.8.

	2022/23	Later Years (p.a.)
	£'000	£'000
REVENUE CONSEQUENCES		
<u>Highways Maintenance</u>		
Basic Highway Assets	2.8	2.8
Enhanced Highway Assets	5.7	5.7
Highway Horticulture (Parks)	0.2	0.2
Energy Cost	1.0	1.0
Net revenue consequences	9.7	9.7
REVENUE FUNDING:		
Corporate Policy Contingency	-9.7	-9.7
Total revenue funding	-9.7	-9.7
REVENUE CONSEQUENCES		
<u>Prudential Borrowing</u>		
Prudential Borrowing	115.6	132.9
Net revenue consequences	115.6	132.9
REVENUE FUNDING:		
Bus Lane Enforcement Surplus Income	-115.6	-132.9
Total revenue funding	-115.6	-132.9

- 7.3.6 Western Road Junction Phase 1 Advanced Works will both change and 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 programme. This cost of £0.010m will be funded from the provision for highways maintenance held within Corporate Policy Contingency. The detailed design will be developed by the appointed design and build contractor with a view to minimising the future maintenance liability to the City Council.
- 7.3.7 The Western Road Junction Phase 1 Advanced Works will require PB estimated at £2.321m. The cost of PB of £0.133m per annum (full year effect) will be funded from Bus Lane Enforcement net surplus income as set out in the Transportation and Highways Capital Programme 2021/22 – 2026/27 Annual Programme Update report approved by Cabinet on 9th February 2021. The total potential cost of PB for the Western Road Junction Phase 1 Advanced Works of £0.133m per annum (full year effect) is within the borrowing limits for the original scheme which is included within the approved Capital Programme.
- 7.3.8 The Prudential Borrowing costs referred to above are based on current Public Works Loans Board (PWLB) interest rates. There is potential to access reduced rate PWLB borrowing, through the Concessionary Infrastructure Loan Rate, subject to meeting the required criteria. An application will be considered in line with the due process.

7.4 Procurement Implications (if required)

- 7.4.1 The highway infrastructure works was tendered as a single procurement exercise to include, Phase 1 (including Stage 1 - ECI and Stage 2 - Detail Design) and Phase 2 (Stage 3 - Works), under the terms and conditions of contract of the NEC3 ECC (dated April 2013), Main Option C – Target Contract with Activity Schedule, through Council's Highways and Infrastructure Works Framework 2014 to 2018 (extended until 31st March 2020), Lot 4 (£500,000+). The procurement process for the scheme consisted of Part 1 Expression of Interest (EoI) and Pre-Selection followed by Part 2 - Further Competition. A contract for Stages 1 and 2 approved by the Assistant Director of Transport and Connectivity under delegated approval given by Cabinet on 26th June 2018. Following completion of the detailed design, Stage 3 will be awarded for the works contract subject to approval of the FBC (Western Road Junction as Phase 1 Advance Works) and the works costs being within budget, subject to approval of the S278 agreement with the Soho Loop Development.
- 7.4.2 To support the development of the A457 Dudley Road Improvement Scheme, there is a requirement for the demolition and remediation of 1 additional property, the Windmill Public House. Demolition works would normally be managed under the Council's exclusivity agreement with Acivico Ltd. However, the timescales for the project do not allow for a a

procurement exercise and Acivico Ltd confirmed in writing to relinquish the requirement under the exclusivity agreement. The tight timescales and programme for the advanced Western Road Phase 1 works means such a delay will have significant impact on the overall deliverability of the main revised scheme. Therefore, it is proposed that McPhillips carry out the demolitions under the main contract for the infrastructure works. The demolition works were included in the procurement exercise for the infrastructure works.

7.5 Human Resources Implications (if required)

- 7.5.1 The management and delivery of the Dudley Road Improvement Revised Scheme - Western Road Junction as Phase 1 Advance Works will be undertaken by officers within Transport and Connectivity supported by external consultants for professional services.

7.6 Public Sector Equality Duty

- 7.6.1 In January 2018 an analysis of the effects of equality was undertaken for the Dudley Road Improvements scheme, this was updated in September 2020 (Report ref EQUA561) and is attached as Appendix C to this report. It was concluded that there would be no adverse effect on 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
- Appendix B – Risk Assessment
- Appendix C – Equality Analysis
- Appendix D – Scheme Plan
- Appendix E – Consultation Outcome
- Appendix F – Programme

9 Background Documents

- 9.1 Report to Deputy Leader 10 January 2017 - Birmingham Development Plan adopted
- 9.2 Report to Cabinet 26 June 2018 Dudley Road Improvement – Project Definition Document
- 9.3 Report to Cabinet 14 May 2019 Dudley Road Improvement – Land Requirements
- 9.4 Report to Cabinet 10 November 2020 - A457 Dudley Road Improvement Revised Scheme Outline Business Case