

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: CABINET
Report of: CORPORATE DIRECTOR, ECONOMY
Date of Decision: 26 June 2018
SUBJECT: DUDLEY ROAD IMPROVEMENT – PROJECT DEFINITION DOCUMENT

Key Decision: Yes
Relevant Forward Plan Ref: 004635/2018

If not in the Forward Plan: Chief Executive approved
(please "X" box) O&S Chair approved
Relevant Cabinet Member(s) Councillor Waseem Zaffar – Transport and Environment
or Relevant Executive Councillor Brett O'Reilly – Finance and Resources
Member:
Relevant O&S Chair: Councillor Liz Clements – Sustainability and Transport
Councillor Sir Albert Bore – Resources

Wards affected: Soho & Jewellery Quarter, Ladywood and North Edgbaston

1. Purpose of report:

- 1.1 To seek approval to the Project Definition Document (PDD) contained in Appendix 1 of this report for the DfT retained Dudley Road Improvement scheme, as shown on Drawing No. 60517916-MOD-10-0000-C-Option 6 in Appendix 1a. The key benefits of this project are to support and protect the City's growth objectives within the Greater Icknield Area, in terms of enabling access to key development sites which will bring forward approximately 3,000 new homes along with other local facilities and employment opportunities. The scheme also reduces congestion and provides improvements for public transport together with the improved Pedestrian and Cycling facilities. It is also part of a wider growth corridor, and along with development sites in Sandwell, there is potential to deliver in total over 5,000 homes in the Greater Icknield and Smethwick area.
- 1.2 To seek authority to submit a funding bid to the DfT's Major Transport Schemes Portfolio.
- 1.3 To seek authority to commence the land / property acquisition process and to make a Compulsory Purchase Order (CPO).
- 1.4 To provide details of the proposed procurement process.
- 1.5 The private report seeks authorisation to place orders with a preferred contractor for Early Contractor Involvement, design development, construction planning and detailed design.

2. Decision(s) recommended:

That Cabinet:

- 2.1 Approves the Project Definition Document and the Preferred Option for the Dudley Road Improvement Scheme detailed in Appendix 1 to this report, based on the estimated total capital cost of £29.464m and to progress the project to detailed design, consultation, and Full Business Case.
- 2.2 Delegates authority to the Assistant Director Transportation 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.
- 2.3 Authorise the submission of the funding bid to the DfT's Major Transport Schemes Portfolio.
- 2.4 Approves the making of a Compulsory Purchase Order under sections 239, 240 and 250

of the Highways Act 1980 in respect of the land and rights within the areas shown edged black on drawing CA_02715_010 Rev- in Appendix 2.

- 2.5 Authorises the City Solicitor to carry out all preparatory work for the Compulsory Purchase Order (including land referencing), and make and submit the order to the Secretary of State for Transport for confirmation, preparation for Public Inquiry (if required) and to serve all necessary notices to give effect to the Compulsory Purchase Order and its implementation, including High Court Enforcement Officer Notices and (if granted power to do so) to confirm the Compulsory Purchase Order.
- 2.6 Authorises the Assistant Director Property (Interim) to negotiate and complete the acquisition (and disposal if required) of any interest to facilitate the building of the new highway including easements and drainage in the adjoining land connected to the scheme, in advance of and alongside the confirmation of the Compulsory Purchase Order and to agree costs and compensation relating to the Compulsory Purchase Order, and authorises the City Solicitor to complete such acquisitions or disposals or easements and seal any documents in connection therewith. To pay statutory home loss, basic loss and negotiate disturbance compensation to all qualifying owners and tenants.
- 2.7 Authorises the City Solicitor to draft and submit for confirmation an Order in accordance with Section 14 and Section 125 of the Highways Act 1980 (or other such similar Orders as may be required) to support the Compulsory Purchase Order.
- 2.8 Authorises the City Solicitor to advertise the loss of Public Open Space within the area shown edged black on the plan at Appendix 3, in accordance with Section 122(2A) of the Local Government Act 1972.
- 2.9 Subject to the Leader being satisfied after consideration of any objections in respect of 2.9 above or if no objections are received approves the appropriation of the open space land under the Open Spaces Act 1906 from Place Directorate to Economy Directorate for Transportation use under the Highways Act 1980.
- 2.10 Authorises the City Solicitor to negotiate, execute, seal and complete all necessary documentation to give effect to the above recommendations.

Lead Contact Officer(s): Peter Parker – Head of Infrastructure Delivery
Telephone No: 0121 303 7096
E-mail address: Peter.parker@birmingham.gov.uk

3. Consultation

3.1 Internal

- 3.1.1 Ward Councillors for the affected areas have been consulted by e-mail on the proposals, 3 of the 6 Ward Councillors contacted have responded and are in favour of the Scheme.
- 3.1.2 The Leader has been consulted in respect of the land and property responsibilities and supports the proposals to proceed to executive decision.
- 3.1.3 The Corporate Director, Place has been consulted and supports the proposals.
- 3.1.4 Officers from City Finance, Procurement and Legal and Governance have been involved in the preparation of this report.

3.2 External

- 3.2.1 Engagement has taken place with the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Programme Delivery Director. Full and detailed formal consultation will be undertaken in summer 2018 and the findings reported in the Full Business Cases (FBC), in accordance with normal practice.

4. Compliance Issues:

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

- 4.1.1 The Dudley Road Improvement Project supports the Council Plan and Budget 2018+ 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 Birmingham Development Plan (2017), GBSLEP Strategy for Growth, Strategic Economic Plan, the Movement for Growth 2026 Delivery Plan for Transport and the Birmingham Connected Transport Strategy.

4.1.2 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 contractors undertaking this project work under the Council's Highways and Infrastructure Framework Agreement are certified signatories to the BBC4SR and will provide additional actions proportionate to the value of each contract awarded. The actions will be monitored and managed during the contract period.

4.2 Financial Implications

- 4.2.1 The total estimated capital cost of the Dudley Road Improvement Project is £29.464m. Through the GBSLEP, provisional approval to the outline business case was granted by the DfT as part of the GBSLEP local Growth Fund (LGF) programme of transport and connectivity projects in July 2014 with an allocation of £22.411m Local Growth Fund (LGF).

As a condition of the DfT funding, a significant local contribution is required and their provisional approval was based on a local contribution of approximately 25% of the project cost. The DfT contribution is currently capped at £22.411m leaving a balance of £7.053m for the City Council to fund from Prudential Borrowing £7.044m and ITB allocation £0.009m.

Following provisional approval the GBSLEP agreed an initial £0.5m LGF allocation on 12th December 2016 to progress the development of the scheme, including option

appraisal, Traffic Modelling, preparation of Major Scheme Business Case (MSBC), commencement of Compulsory Purchase Order (CPO) and progression to the City Council's FBC. The MSBC submission to seek allocation of the remaining balance of £21.911m is in preparation and will be submitted to the DfT in Mid 2019.

In light of the increasing construction costs nationally a review of the original scheme design was undertaken, which included consideration of a number of options and value engineering in line with the aims and objectives for the scheme. The cost estimate for the preferred scheme will be contained within the £29.464m budget allocation. The Project cost will be further reviewed as the scheme is developed up to FBC.

The DfT will not give formal approval and release funds until the City Council has secured Full Business Case approval, a confirmed CPO and tendered the works. The anticipated dates for the DfT approval are Summer 2020. As a result the funding profile as previously reported in the '16th May 2017 Updated Transportation and Highways Funding Strategy 2017/18 to 2022/23 Programme Definition Document' has changed as set out in the table below:

FUNDING PROFILE		2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	later years	Total
		£000s							
May 2017 PDD	DFT/LGF £22.4m		300	3,150	6,341	12,720			22,511
	PRU Borrowing £7.04m						7,044		7,044
Total			300	3,150	6,341	12,720	7,044		29,555
Current	DFT/LGF PREP £0.5m	200	64	236					500
	DFT/LGF £21.911m					8,270	9,000	4,641	21,911
Spend Profile	PRU Borrowing £7.04m			264	1,080	136	2,950	2,614	7,044
	ITB	9							9
Total		209	64	500	1,080	8,406	11,950	7,255	29,464

In the event the DfT do not approve their Full Business Case or the scheme does not proceed to construction, the DfT reserves the right to seek reimbursement from the Council of any payments made in respect of the grant award. The City Council has been providing quarterly project reports to update on progress and have met with DfT to discuss the programme and funding. The DfT continue to support the project and the risk of the project not proceeding is considered low, particularly as the land and property required for the project has now been significantly reduced and works affecting the Railway have been removed from the scheme. A decision is anticipated from the DfT in 2019/20 and based on the current cost profile funding received up to that date will be in the region of £0.5m. In the event the project is not approved by the DfT or does not proceed to construction, any claw back of the £0.5m by the DfT and pay back of Prudential Borrowing of £0.264m will be identified from within the Directorate service budgets.

4.2.2 The Prudential Borrowing will be repaid over a period of 25 years and this will be funded from surpluses generated through Bus Lane Enforcement, in line with regulation, (please refer to Appendix 1 for further information). Further details of the use of Bus Lane Enforcement Surplus will be included in the revised Transportation and Highways Funding Strategy Report scheduled for July Cabinet.

4.2.3 It should be noted that a bid to the Housing Infrastructure Fund (HIF) for funding to

support the scheme has been made totalling £5m. Should the bid be successful the Prudential Borrowing requirements will be revised down accordingly, reducing the call on revenue to service the borrowing.

- 4.2.4 This project will 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 programme. The estimated net cost of including these newly created assets within the highway maintenance process is £17,830 per year. This cost will be funded from the provision for Highways Maintenance held within Corporate Policy Contingency. The revenue implications associated with landscaping will be presented within the FBC when the proposals have been further developed.

4.3 Legal Implications

- 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, 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 October 2015 and updated in February 2018 on Compulsory Purchase and Department of Transport circular 2/97.

- 4.3.2 The Council has power to appropriate land under Section 122 of the Local Government Act 1972 where satisfied it is no longer required for the purpose for which it is held immediately before the appropriation. Section 122(2A) requires that where land is existing open space, notice of the intention to appropriate to other use must be advertised and any objections considered prior to the appropriation taking place.

4.4 Public Sector Equality Duty

- 4.4.1 In January 2018 an analysis of the effects of equality was undertaken for the Dudley Road Improvements scheme and is attached as Appendix 5 to this report. It was concluded that there would be no adverse effect on protected groups so no action plans are required.

5. Relevant background/chronology of key events:

- 5.1 A Major Scheme Business Case was completed in 2004 and revised in 2009, however the project was deferred as other major schemes such as the Northfield Relief Road, Selly Oak New Road and Chester Road Improvements were given higher priority.
- 5.2 On July 7th 2014, following the development and submission of its Strategic Economic Plan and subsequent negotiation with a number of departments via the Cities and Local Growth Unit, GBSLEP agreed its Growth Deal with the Government.
- 5.3 The Growth Deal was subsequently expanded on 29th January 2015, with a total capital award allocated to GBSLEP of £378.8m to deliver 39 projects across Greater Birmingham and Solihull.
- 5.4 On 20th October 2015 a Cabinet Report was approved that enabled the City Council to act as the Accountable Body on behalf of the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) for £2.2m capital grant from the DfT. It also gave approval for City Council to accept the offer of funding of £0.5m from the DfT for

preparatory work and the development of the Major Scheme Business Case (to DfT).

- 5.5 The Greater Icknield Masterplan (2016) sets out further details on how the area will deliver this significant growth. The Masterplan identifies the need for highway improvements along Dudley Road to enable development and accommodate wider growth in the area. This will be particularly relevant for the City Hospital and Soho Loop development sites which have the potential to deliver over 1,000 new homes. The highway improvements should also support the vibrancy and vitality of the Dudley Road Local Centre.
- 5.6 Greater Icknield is identified as a key growth area within the Birmingham Development Plan (2017), with proposals to accommodate a further 3,000 new homes along with other local facilities and employment opportunities. It is part of a wider growth corridor, and along with development sites in Sandwell, there is potential to deliver a total of over 5,000 homes in the Greater Icknield and Smethwick area.
- 5.7 In Summer 2016 a consultant was appointed through the West Midlands Transportation Services Framework Agreement to develop the Major Scheme Business Case in line with the DfT's 'The Transport Business Case' and WebTAG (Web-based Transport Analysis Guidance), which provides information on the role of transport modelling and appraisal, and how the transport appraisal process supports the development of investment decisions to support the business case. The main components of this work being development of options, traffic model and preparation of the Business Case. This work is now substantially complete and informs this PDD. Work on the Business Case continues and quarterly updates and a progress meeting with the DfT have taken place to inform on programme progress. Final approval will be sought when the FBC is submitted to the DfT, anticipated July 2020.
- 5.8 The scheme objectives are to enable access to key development sites which will bring forward up to 5000 new homes by:
- Providing increased capacity;
 - Improving accessibility into Birmingham City Centre;
 - Improving journey time reliability (including for public transport);
 - Providing safer infrastructure for all road users;
 - Providing facilities for cyclists; and
 - Reducing existing congestion that acts as a major barrier to growth both in Birmingham and throughout the West Midlands.
- 5.9 The A457 Dudley Road corridor runs west to east through the eastern side of Birmingham. The corridor is approximately 2km long from Ladywood Middleway / Spring Hill junction on the Ring Road to Cape Hill near the boundary with Sandwell Metropolitan Borough Council. The A457 forms part of Birmingham's Strategic Highway Network and provides a key arterial route from the Black Country into central Birmingham. The road is heavily used by both local and through traffic and forms part of the emergency vehicle route to the M5 Motorway.
- 5.10 The section of the Dudley Road corridor being considered for improvement is approximately 1.3km in length from the Spring Hill junction to the Winson Green Road junction. The operation of the existing road layout along with the project proposals and benefits to the movement of traffic and regeneration of the area are detailed in Appendix 1.
- 5.11 The poor standard and inefficient operation of this section of the Dudley Road for most of the day together with associated environmental deterioration and poor accessibility

for users see the corridor as an unattractive route to and from the City. Delays as a result of congestion significantly add to business costs and discourage businesses from investing and locating in this area, as well as adversely impacting on access to employment opportunities for local residents.

- 5.12 These proposals will provide the much needed improvements to better manage the flow of traffic and access to development sites to support economic growth.
- 5.13 Land referencing has been commenced to clarify all third party interests in the land to be acquired for the scheme. The 'Local Growth Fund Transport and Connectivity Projects: Programme Definition Document' – Report of the Deputy Chief Executive to Cabinet, 16th March 2015 granted approval to progress voluntary acquisitions. A discussion with relevant land owners is programmed to take place with Birmingham Property Services taking the lead. The Compulsory Purchase Order is now necessary to ensure that the improvement scheme can be delivered and the CPO justification is provided in Appendix 6. Not obtaining all the necessary land would result in the scheme not being viable.
- 5.14 A risk management schedule is attached as Appendix 4.

6 Procurement

- 6.1 It is proposed to tender the works using the Council's Highways and Infrastructure Framework Agreement Lot 4 – Works above £500,000. It is proposed to engage a Design and Build Contractor with Early Contractor Involvement (ECI). The key stages of the procurement process with indicative dates are set out below:
- Pre qualification (to reduce tenders down to 2 or 3) – early summer 2018
 - Tender Period – summer 2018
 - Evaluation – summer 2018
 - Appoint Contractor – autumn 2018
 - Stage 1 – ECI to support Design Development, Construction Planning and to agree a target cost – autumn 2018 to summer 2019
 - Stage 2 - Detailed Design and firm up target cost – Autumn 2019 to Summer 2020
 - FBC Approval – winter 2019/20
 - DfT Approval – summer 2020
 - Construction Lead in – autumn 2020
 - Construction – Early 2021 to Mid 2022
 - Post Implementation Review – Mid 2023
- 6.2 Approval is sought through this PDD to appoint a Contractor to undertake ECI Stage 1 Design Development, Construction Planning and to agree a target cost.
- 6.3 The highway proposals impact on approximately 48 trees (to be confirmed at the detailed design stage). It is proposed to appoint an experienced contractor using the City Council's Landscape Construction Framework Agreement 2015-2019 (or future replacement Framework) for the proposed landscaping, including tree removal and planting works. Tree and landscape measures will be developed at the design stage in accordance with the emerging new Tree Policy. Authority to appoint a Landscape Works Contractor will be sought at the FBC stage.

7. **Evaluation of alternative option(s):**

- 7.1 A review of the original proposal was undertaken through 2017 driven in part by increasing construction costs and the need to identify a scheme within the available budget that meets the key objectives to better manage traffic along the Dudley Road

corridor and provide improved access to development sites. The review considered six options as follows:

1. Option 1 - Do Major (original option) + Bus Lane
2. Option 2 - Do Minimum
3. Option 3 - Do Something (Works to Northern Side of Rail Bridge) + Shared Cycling
4. Option 4 - Do Something (Works to Southern Side of Rail Bridge) + Segregated Cycling
5. Option 5 - Do Something + (Works to both Sides of Rail Bridge) + Shared Cycling
6. Option 6 - Do minimum plus Segregated Cycling Facility (No Works to Rail Bridge)

7.2 The six options were evaluated and of the six options two options were taken forward for further development, which were Option 2 and Option 6. The other options were discounted due to the high overall scheme cost for which no additional benefit would be provided. Option 2 was not taken forward as it did not provide the improvement of all the Key junctions nor any cycling provision. It is proposed Option 6 is taken forward as it provides, on balance, the best value for money and meets all of the scheme objectives; meeting the requirements to better manage traffic, provide improvements for pedestrians, cyclists and buses and access to development sites. A summary of the option appraisal is given in Appendix 1.

8. Reasons for Decision(s):

8.1 To commence development and preparatory activities necessary to progress the project to Full Business Case.

Signatures

Date

Councillor Waseem Zaffar – Transport and Environment

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Councillor Brett O'Reilly – Finance and Resources

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Waheed Nazir –
Corporate Director, Economy

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List of Background Documents used to compile this Report:

'Local Growth Fund Transport and Connectivity Projects: Programme Definition Document' – Report of the Deputy Chief Executive to Cabinet, 16th March 2015.

'Winning Resources for BCC Priorities – Acceptance of Grant Funding to Support Preparatory Costs of Transportation schemes in the GBSLEP Growth Deal Programme' – Report of the Deputy Chief Executive to Cabinet, 20th October 2015.

'Updated Transportation and Highways Funding Strategy 2017/18 to 2022/23' – Report of the Corporate Director Economy to Cabinet, 16th May 2017.

List of Appendices accompanying this Report (if any):

Appendix 1 – Dudley Road Improvement Scheme: Project Definition Document

Appendix 1a – Dudley Road Improvement Scheme: Scheme Plan

Appendix 2 – Dudley Road Improvement Scheme: CPO Requirements Plan

Appendix 3 – Dudley Road Improvement Scheme: Loss of Open Space Plan

Appendix 4 – Dudley Road Improvement Scheme: Risk Management

Appendix 5 – Dudley Road Improvement Scheme: Equality Analysis Ref EA002853

Appendix 6 – Dudley Road Improvement Scheme: Compulsory Purchase – The Human Rights Act 1998 and the European Convention of Human Rights

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 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 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