



**COUNCIL CABINET**  
**10 April 2019**

**ITEM 2a**

Report sponsor: Strategic Director of Corporate Resources  
Report author: Team Leader Structures, Design and Bridges

## **A52 Wyvern Transport Improvements Project Update**

### **Purpose**

- 1.1 To provide an update on the work that has been carried out since the A52 Wyvern Transport Improvement Project was agreed by Cabinet on 12 September 2018.
- 1.2 To obtain the necessary approvals to allow the Project to proceed in accordance with the revised programme and on the basis of the proposed, revised Project budget.

### **Recommendations**

- 2.1 To amend the Council's Capital Programme in 2019/20 and 2020/21 and approve a revised Project budget of £40.3m plus a £2.9m contingency risk budget ("Project Budget"). The Project Budget of £43.2m in total includes an estimate of final construction costs including an additional £1m for enhanced road surfacing of the A52 Project over and above the original specification, projected staffing and consultancy costs, latest land acquisition and service diversion estimates.
- 2.2 To note the revised Project design and revised construction programme and specifically to approve the change from a signalled crossroads to a signalled roundabout at the Wyvern Way/Derwent Parade junction, as more fully described in paragraph 4.7 below.
- 2.3 To note the assumptions on which the Project Budget and revised construction programme are based.
- 2.4 To note the progress of negotiations with Network Rail, St Modwens and other key landowners.
- 2.5 To delegate authority to the Strategic Director of Corporate Resources following consultation with the Cabinet Member for Regeneration and Public Protection to take such executive decisions as are necessary to ensure that the Project can continue to progress as effectively and efficiently as possible, within the Project Budget.
- 2.6 To approve the additional £10.2m of Project Budget since Cabinet approval in September 2018 for the allocation of Project Budget of £33m, and this additional £10.2m be funded from sources as set out in section 7 of this report.

- 2.7 To delegate authority to the Strategic Director of Corporate Resources to issue Galliford Try with an instruction to proceed with the Project to completion within the constraints of the £40.3m budget plus £2.9m contingency risk budget.

## **Reasons**

- 3.1 To provide Cabinet with an update on the A52 Project, including the £40.3m budget plus £2.9m contingency risk budget as the final Project Budget for the scheme, including construction programme and Project design. This Report updates Cabinet on Project progress since 12 September 2018 and seeks approval for the total Project Budget.
- 3.2 To obtain the necessary approvals to allow the Project to progress to completion in line with the Project Budget and construction programme.
- 3.3 Delegated decision making, within the Project Budget, is proposed to ensure that works can be completed as efficiently and effectively as possible.

## **Supporting information**

- 4.1 This Report provides an update on the work that has been carried out on the Project since it was reported to Cabinet on 12 September 2018 and seeks the necessary approvals and delegations to enable the Project to be completed as efficiently and effectively as possible.
- 4.2 The Project is intended to deliver significant highway and economic benefits on a congested part of Derby's principal road network including;
- improved road safety
  - reduced congestion and improved air quality
  - improved operation of the road network and key junctions
  - support for walking, cycling and public transport users
  - improved accessibility for people with impaired mobility
  - bringing forward development and creating new employment opportunities
  - minimising future disruption and costs associated with road maintenance.
- 4.3 The Council appointed Galliford Try to be its construction contractor for the Project; the contract is a NEC3 Engineering Construction Contract, Target Cost and Activity Schedule. A target cost contract is one where the outturn financial risks are shared between the client and the contractor in an agreed proportion. This is seen as a best practice approach which incentivises performance.

- 4.4 To date the Project has proved to be extremely challenging with significant complexities and interdependencies between elements. As a result the Project will cost significantly more than the original estimated cost of £14.9m. The Project has also taken longer to develop than originally anticipated. To expedite matters, additional external engineering and contract resources have been procured to assist the design team and we have been working closely with Galliford Try to confirm that the remaining elements of the Project are robust and can be delivered as efficiently as possible. A full design review has now been completed incorporating an updated site and traffic survey and additional traffic and highway design modelling. The traffic modelling has taken into account recent changes to planned development in the area and consequently some changes to the approved Project layout are proposed.
- 4.5 Since the September 2018 Cabinet Report:
- widening of the A52 to three lanes in each direction between Raynesway and Wyvern has been completed;
  - the eastbound slip road from Wyvern to Raynesway has been opened;
  - realignment of the A52 eastbound and central safety barrier improvements have been completed;
  - new drainage, an attenuation pond and earth noise bund have been installed on the northern side of the A52;
  - over 40,000 trees have been replanted on land near Waterford Drive.
- 4.6 At the point at which works commenced, the full Project design was not complete. Certain work packages were instructed but it became apparent in Summer 2018 that some of those packages could not be completed until the full Project design was completed. This included the redesign of elements of the Project that had previously been de-scoped. The Project Team updated the overall Project design to allow a complete high level design to be submitted to Galliford Try in early March 2019.

### **Key Design Changes/Developments**

- 4.7 As a result of the design work described in paragraph 4.6 above, the following key design changes/developments have occurred:
- **Footbridge over the A52, near to Meadow Lane:**  
Design changes have been made to the footbridge and access ramp design. Changes have been made to the supporting structures and revisions to the orientation of the access ramps to meet the required accessibility standards.
  - **Derwent Parade/Wyvern Way Junction:**  
The design for the Derwent Parade/Wyvern Way junction was originally proposed as a signalised crossroads. However as a result of changes in traffic patterns following recent developments, a review of the traffic modelling has taken place. The review, which also takes account of further planned development in the area, determined that a signalised roundabout would provide a more effective solution than the signalised crossroads and this is now incorporated within the designs.

- 4.8 The remaining elements of the Project are largely unchanged although it is now planned to retain some existing kerb lines and drainage on the northern side of Wyvern Way and to adjust highway levels at the Stanier Way junction to provide a more economical design. It is also proposed to use a higher specification for surfacing works which should reduce future maintenance costs.
- 4.9 Following submission of the design as set out in paragraph 4.6, the combined Project Team (comprising the Council and the appointed Project assurance and costs consultants (Arcadis and WSP) and Galliford Try plus key sub-contractors) have carried a collaborative programme review and quantified risk assessment workshop. This work has led to the agreement of all parties to the Project Budget and programme (see further section 7 below).
- 4.10 The Project Budget of £40.3m plus a £2.9m risk contingency budget is based on a number of assumptions around the deliverability of the Project and it will not be possible to agree a final target cost until the summer 2019, although there is every confidence that this cost will be within the proposed overall Project Budget. Further time is required to gather price information from sub-contractors, answer a series of technical queries and value engineer the remaining works. Where assumptions have been made, a value has been allocated to the outstanding risk and this is included in the overall Project Budget. A further breakdown in support of the costs is contained in Appendix 1, the private and confidential section of the Cabinet agenda, due to the commercially sensitive nature of the information.

The Project Team has produced a Quantitative Cost Risk Analysis Report and operates a Project Risk Register. These are included in the confidential report.

Cabinet is specifically asked to note the risk around wind conditions relating to the lifting of the replacement footbridge; this is identified as a red risk in the Project Risk Register with a high percentage likelihood and impact, with limited controls available.

- 4.11 In line with normal industry practice, Galliford Try have given assurance that the construction element of the Project Budget and construction programme have been developed on the basis of a set of assumptions (full details are set out in Appendix 1). Key assumptions for Cabinet to note include:
- all outstanding works being instructed on 29 April 2019 and these works being carried out concurrently;
  - the on-slip from Pride Park to the A52 westbound can be closed for an extended period of time;
  - closure of the westbound off-slip from the A52 to Pride Park is permissible for periods but not on Derby County home football weekends.
  - design deliverable dates within Galliford Try's Budget Programme of 3 April 2019 are met and technical queries that affect buildability being closed out.
  - traffic management assumptions /closures /phasing remain as per Galliford Try' previous January 2019 submission.

To the extent the assumptions are proven to be incorrect, this could impact on the Project Budget and/or programme.

- 4.12 Subject to receipt of all necessary approvals included in the report, the Council will issue an instruction to Galliford Try to proceed. Following receipt of the instruction to proceed, Galliford Try will need a short time to procure sub-contractors, plant and materials. A limited amount of construction will continue in the short term and more major works will commence before the end of spring with a planned completion by the end of the Summer 2020. Initial activity will be focused around demolition of the footbridge.
- 4.13 A major benefit of the Project is to unlock the development of the Derby Triangle site to the south of Wyvern Way. This land is owned by Network Rail and subject to a development arrangement between Network Rail and St Modwens. It is intended that a section 106 Agreement will be agreed between the Council, Network Rail and St Modwens, under which St Modwens will make a contribution to the cost of highway improvements which are required to develop the Derby Triangle site, which could be delivered as part of the broader Project. Negotiations are well under way.
- 4.14 The Council has recently refused permission for the development of the Fireplace Workshop site on highway grounds. Officers consider that the revised junction layout at Derwent Parade provides greater scope to bring forward a development but this would be subject to a revised planning application.

### **Public/stakeholder engagement**

- 5.1 Wide ranging consultation and public engagement has been undertaken as part of the development of the Project. This has included informal and more formal engagement with local residents and businesses through the granting of planning permission and compulsory purchase procedures. More recently information on the new footbridge design has been shared with residents and stakeholders and the public have been invited to take part in a tree planting day.
- 5.2 Information is updated regularly on the Council's website and information is reported via social media where appropriate. Further progress will be reported as part of the delivery of the remaining elements of the Project.

### **Other options**

## 6.1 Option to Abort the Project

Ending the current contract and aborting the Project is not considered an option for the following reasons:

- under the terms of the Construction Contract, termination by the Council would give rise to significant termination compensation being payable to Galliford Try (including having to cover the loss of anticipated profit and demobilisation costs);
- the outputs, required by our funding partners would not be achieved, and there would be an additional risk of claw back on the £6.72m Local Growth Fund and £2.6m 'Growth and Housing Fund' grants from Government;
- without the full Project in place, it is unlikely that the Derby Triangle development would come forward and the estimated 3,000 jobs generated by the development would not be secured;
- the £16.225m spent on the Project to date would be abortive costs; and
- the unfinished construction works would become a liability for the Council.

## 6.2 Delay instruction of the construction works until a revised target price is established

A decision to delay the instruction of construction works until a revised target price is established is not recommended because this would result in substantial cost increases and negatively impact on the programme as opportunity to work during the summer months would be lost.

## Financial and value for money issues

- 7.1 The report recommendation is to agree a final Project Budget of £40.3m plus a £2.9m risk contingency budget, an increase from the previous interim operational budget of £33m agreed by Cabinet on 12 September 2018 by £10.2m. The detailed breakdown of the total budget is included in Appendix 1, contained in the private and confidential section of the Cabinet agenda, due to the commercially sensitive nature of the information.
- 7.2 The increased funding to £33m agreed by Cabinet on 12 September 2018 has been met from the Council's Budget Risk Reserve.
- 7.3 Subject to approval, the additional £10.2m of funding recommended in this report will be funded from:
- (i) £650k from slippage in the 2018/19 Highways and Maintenance capital programme for enhanced road surfacing to 'hot rolled asphalt' (HRA) standard;
  - (ii) £750k already allocated in the 2019/20 Highways and Maintenance capital programme for highways works on the A52;
  - (iii) £3.8m from General Reserves
  - (iv) £1m from Equal Pay Reserve
  - (v) £2m from 2018/19 Business Rates Pooling Reserve
  - (vi) £2m from the Public Finance Initiative Reserve.

## Legal Implications

- 8.1 Proceeding in accordance with the recommendations does not raise Legal Implications for the Council, as the Council will continue to operate in accordance with the NEC3 Engineering and Construction Contract entered into with the Contractor (“Construction Contract”) and the conditions of the Local Growth Fund, Growth Housing Fund and National Productivity Investment Fund ( collectively the “Grant Conditions”).
- 8.2 Legally, the Council could choose to terminate the Construction Contract and abandon the Project; however, to do so would have significant legal implications for the Council under the Construction Contract and the Grant Conditions.
- 8.3 Legally, we can modify the existing contract as per The Public Contracts Regulations 2015, clause 72.-(1)(e).
- 8.4 Legal implications relating to the Derby Triangle Site are set out in Appendix 1 to the Confidential Report

**Other significant implications**

- 9.1 Significant staff resources are committed to the Project. This is particularly the case in the Structures, Design and Bridges Team and inevitably this will impact on the delivery of future work. Where required external resources will be sought to support other future pressures.

**This report has been approved by the following people:**

| <b>Role</b>                | <b>Name</b>   | <b>Date of sign-off</b> |
|----------------------------|---------------|-------------------------|
| <b>Legal</b>               | Emily Feenan  | 08/04/2019              |
| <b>Finance</b>             | Don McLure    | 08/04/2019              |
| <b>Service Director(s)</b> | Verna Bayliss | 08/04/2019              |
| <b>Report sponsor</b>      | Don McLure    | 08/04/2019              |
| <b>Other(s)</b>            |               |                         |

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| <b>Background papers:</b>  |   |
| <b>List of appendices:</b> | Appendix 1 Private and Confidential Report in Support of A52 Project Cost and Development and Design Issues |