

MEETING:	Overview and Scrutiny Committee - Special Meeting to Consider the Call In of a Cabinet Decision
DATE:	Monday, 26 October 2020
TIME:	10.00 am
VENUE:	Held Virtually

MINUTES

Present

Councillors Ennis OBE (Chair), Carr, T. Cave, Clarke, Fielding, Gillis, Daniel Griffin, Hayward, Higginbottom, Hunt, W. Johnson, Leech, Lofts, Makinson, McCarthy, Noble, Pickering, Richardson, Stowe, Sumner, Tattersall, Williams, Wilson and Wraith MBE

Also in attendance: Councillors Greenhough, Lodge and Kitching

1 Apologies for Absence - Parent Governor Representatives

No apologies for absence were received in accordance with Regulation 7(6) of the Parent Governor Representatives (England) Regulations 2001.

Ms G Carter (Parent Governor Representative) did attempt to attend the meeting but was unable to do so due to technical difficulties.

2 Declarations of Pecuniary and Non-Pecuniary Interest

Councillor Lofts declared a non-pecuniary interest in minute No 3 (Call-in of the Cabinet Decision regarding the Award of the A628 Dodworth Road/Broadway Junction Main Civil Works Contract) in view of his membership of the Friends of the Earth.

3 Call-In of the Cabinet Decision regarding the Award of A628 Dodworth Road/Broadway Junction Main Civil Works Contract (Cab.07.10.2020/11)

The Chair welcomed Members to the meeting and set out the relevant constitutional guidance under which the meeting would be conducted.

In accordance with the Council's Standing Order 25 (2), Councillors Fielding and Kitching were permitted to speak at the meeting, but not submit a motion or vote.

A report of the Executive Director Core Services was received in respect of the call-in request of a Cabinet decision regarding the Award of the A628 Dodworth Road/Broadway Junction main Civil Works Contract.

It was noted that the Cabinet had resolved:

- (i) that the progress of the delivery of the approved A628 Dodworth Road / Broadway Junction Improvement scheme (Cab.25.07.2018/15), as detailed in the report submitted, be noted;

- (ii) that approval be given to the award of the main civil works contract outlined in Section 4, noting the financial implications (as detailed in Section 7, Financial Implications);
- (iii) that the release of additional monies from the Council's capital reserves (as detailed in Section 7, Financial Implications) to support the delivery of the civil works contract and also accommodate wider project cost increases arising since project approval was granted in 2018, be approved; and
- (iv) that the Executive Director of Place be authorised to undertake all necessary steps to ensure continued delivery of the scheme.

The reasons for the call-in were set out in detail by the proposing Member Cllr Fielding.

In summary, it was suggested the objecting Members, including Councillors Greenhough, Lodge, Lodge and Kitching felt that in the current uncertain financial climate, the course of action required to prudently manage the spiralling costs of this project needed to be given further consideration. In particular it was suggested that:

- 1 The information presented to Cabinet regarding estimates, project management and financial management was incomplete, inaccurate and misleading and prevented the Cabinet from fully scrutinising the reasons for the increase in costs;
- 2 No alternative approaches to financing the overspend were considered or presented to Cabinet
- 3 No consideration had been given to the effects of the COVID-19 pandemic on traffic volumes and patterns to enable the need to complete the scheme at this time to be properly assessed

Councillor Fielding then went on to outline recommended alternative courses of action to that proposed by Cabinet. In summary:

- A to carry out a full Internal Audit of events, including estimates, cost increases, financial reporting and authorisation and to additionally report on the value for money of the cost of the scheme;
- B to appraise the advice received from external consultants to assess whether any wrong advice contributed to the increases in costs and seek financial redress accordingly; and
- C to suspend the project pending a further review of the changes of traffic volumes and patterns due to the COVID 19 pandemic and use the remaining project capital to restore the green space to public use pending the review OR to fund the remainder of the project from savings in the existing Capital Programme and/or seek additional external funding sources

In making his presentation Councillor Fielding presented further detailed information

- to support the justification for the call-in;
- highlight concerns about the rising costs of the project, the exclusion of foreseeable expenditure from the original estimates particularly in relation to noise insulation and ground stabilisation works and the use of Capital Reserves; and
- support the suggested alternative options

The Chair thanked Councillor Fielding for his detailed presentation and welcomed the following witnesses to the meeting and invited them to respond:

Matt Gladstone – Executive Director Place
 Rachel Allington – Major Projects Group Leader
 Ian Wilson, Group Manager – Highways and Engineering
 Andrew Jones – Principal Engineer, Highways Design
 Mark Bell – Strategic Finance Manager
 Joe Jenkinson – Head of Planning, Policy and Building Control
 Councillor Lamb – Cabinet Member for Place (Environment and Transport)
 Councillor Sir Steve Houghton CBE – Leader of the Council

Matt Gladstone opened the witness statements and made particular reference to the following:

- the report presented to Cabinet provided an update on progress of the scheme, sought approval to award the Civil Works Contract together with additional funding required to support the delivery of the project including cost increases.
- He reminded the Committee of the rationale for and background to the project which was designed to meet current as well as projected future demand (as also detailed within the Local Plan)
- The scope of the project had widened in relation to landscaping, noise insulation works, ground stabilisation works and extensive security works and the reasons for this were referred to
- In relation to the specific call in points:
 - A detailed explanation was provided about the background to the development of the project and the seeking of planning permission.
 - A financial appendix had been provided as required and the report outlined in detail the funding arrangements which also included grant aid from the Sheffield City Region.
 - The way in which estimates for the scheme had been calculated was outlined. Reference was also made to the way in which estimates for the additional works, with comparisons to the original budget estimates, had been calculated. Information was also provided on the way in which funding had been utilised together with the rationale for the request for additional finance of £3.05m
 - Whilst the report had been considered in private by Cabinet due to commercial sensitivities, a redacted version had been provided so as to provide as much transparency as possible
 - A requirement of the grant funding from the Sheffield City Region was that all cost overruns or increased delivery budgets had to be borne by the authority, hence the reason for the request for additional finance. This had also been built into the Medium-Term Financial Strategy

- Reference was made to the traffic modelling that had taken place which had informed the development of the approved project. Whilst this scheme utilised more of the green space within the area, it did not result in the demolition of properties and was designed to meet greater future demand including the possible expansion of Horizon Community College as well as the development of a further 600-900 place school in the area
- In relation to the impact of COVID 19, whilst there had been an initial reduction in traffic volumes to approximately 35% of 'normal' at the time of lockdown, this had now increased to 90%. On that basis, the completion of the scheme was still needed to cope with current and future growth aspirations in line with the approved Local Plan

The Chair then invited Members of the Committee and 'objecting Members' to ask appropriate questions.

In the ensuing discussion, the following matters were raised, and answers were given to Members questions where appropriate:

- Responses to Committee Members questions
 - In the event that the project did not go ahead, the Authority would have to repay the £2m secured from the Sheffield City Region as part of the non-completion of the scheme. In addition, the Authority would have to reinstate the land to its former condition at a cost of approximately £250,000 - £500,000 dependent upon the scope of the reclamation works required. In addition, the Authority was striving to obtain additional grant funding towards the cost of the footbridge, a complementary scheme to the main scheme, and any grant funding obtained would, therefore, be lost
 - It was suggested that the Council had reached a point of no return, as to reinstate the Park to its original condition would mean that the Council had spent up to £7m for no benefit. This view was shared by the Executive Director Place particularly in view of the potential impact on future growth aspirations for the borough
- Responses to 'Objecting Members' Questions
 - Concern was expressed as to where the additional £3.05m now sought would leave the Council's Reserves position particularly as these appeared to be dwindling. Reference in this respect was made to the Council's Capital Reserves position in relation to the Glassworks project and to the potential for a No-Deal Brexit which would also impact on those reserves. Questions were asked, therefore, about the current position with regard to those reserves and whether, following release of the additional money sought, whether the Council's Reserves were sufficient and whether or not this was a prudent approach to take. The Executive Director Place commented that this funding would be sought from Capital and not Revenue. The Council had an excellent track record around financial health and resilience, but it was also acknowledged that COVID would have an impact on the Council's finances. The Council had reserves in place and was prudent in their use. The Council was also working with the Sheffield City

Region and other organisations and bodies in order to lever in additional finance. The Council was not overly concerned about its current position with regard to Capital Reserves

- Given that the costs of this project had increased by £3.05m over the original estimate, questions were asked as to how confident the Council could be about the impact on the Capital Budget of a global pandemic. It was noted that the original estimates for this scheme had been produced in 2017/18 which had included a contingency budget for unforeseen issues. It was felt that a robust process was in place both to build and manage those budgets as well as the contingency, particularly as estimates transpired into actual costs. It was also reported that there was over £22m in unused/unallocated reserves which meant that the Authority was in a very strong Capital Reserves position
- Within the context of a changing world and increased costs, a question was asked as to what level of cost the project would become unviable. The Executive Director Place stated, however, that it was very clear that this scheme was still needed. He accepted that the COVID pandemic had significantly impacted on traffic volumes, but these had pretty much reverted back to 'normal' levels. This was expected to continue given the expanding economy, the inward investment and the potential growth around the M1 corridor. Congestion was expected to continue and, therefore, the scheme was viewed as being essential. In relation to the M1 Junction 37a which had been reported in the Transport for the North document, this was a longer-term aspiration and no details had been received from Highways England or from Transport for the North. This current scheme was still viable and needed to progress
- The Sheffield City Region had required a robust business case and there had also been an equally robust appraisal process. This had been undertaken independently. The business case had demonstrated the need for the scheme including the benefits that would be provided. The project was also about unlocking current and future growth aspirations and capacity both for the borough and the Sheffield City Region
- In response to questions about the 'upper level' cost at which the scheme could be considered unviable, the Executive Director Place commented that the Authority had tested the market and the awarding of the contract was at the cost stated, accepting that contingencies had been built in for unforeseen issues. It was not anticipated that there would be any further significant increase in costs. Arising out of this, the Group Manager, Highways and Engineering commented on the form of contract that had been utilised on this project which also allowed the contractor to provide cost saving benefits to both the contractor and the Council. He also commented on the nature of Civil Engineering works which would always mean that unexpected issues were identified. It was important, however, to recognise that the scheme unlocked potential development sites which was another benefit emanating from the project. This would assist in the regeneration of the borough

- Questions were asked about any lessons learned that would benefit future highways schemes. It was noted that this particular scheme had been drawn together and costed without the benefit of planning permission or the additional elements that had subsequently been required. What was difficult, however, was that there was a need to ensure that there was no pre-emption of the Cabinet or planning decisions and, therefore, on-site in-depth investigations couldn't be undertaken until July 2019 and this had a cost implication. Perhaps the Service could have gone on site earlier, but this would have pre-empted a planning application and decision which the Council would not normally want to do, but further discussion could be undertaken as to whether or not this was appropriate.
- Arising out of the above and in relation to the professional management of the scheme, it was reported that the original estimates had been obtained following a desk top exercise in order to obtain grant funding from the Sheffield City Region. It had always been known that there would be additional costs above that, and this had been reported to Members with contingency being placed in the schemes to cover such outcomes. This had been done correctly step by step by the professional officers concerned. In terms of getting on site and undertaking in depth investigation into possible further costings, this would have had to be undertaken before the planning application had been considered. In such circumstances the Council could have been criticised. In terms of finance, the Council had sufficient Capital Reserves to cope with this scheme, the impact of COVID, as well as any other capital schemes. With regard to the financial and engineering management, the scheme was just as valid today as when it had originally been designed. Indeed, its validity was even more vindicated given that in the middle of a pandemic the traffic volumes within the area were at 90% of 'normal' and this was anticipated to be at 100%+ once 'normality' returned
- Arising out of the above, Councillor Fielding stressed that the 'objecting' Members were in no way questioning the professional management of the scheme or the officers concerned, they were merely questioning the processes around the scheme costs and development
- Clarification was sought as to whether this would be the final request for additional money in order to complete the scheme and questions were asked if there were any other schemes funded via the Sheffield City Region that had been under-estimated that might result in a request for further funding from Capital Reserves. The Executive Director commented that the authority had underspent on City Region Schemes. On this particular scheme, however, as previously reported, there was scope for the target price to decrease and to offer up cost savings. The major area where the costs had increase, had occurred in relation to the ground stabilisation works which had now been completed. There were, therefore, no other contracts to procure
- Clarification was sought about the claw-back provisions of the Sheffield City Region Grant. It was stated that 100% of any grant obtained would have to be paid back. This would be approximately £2m should the scheme not go ahead

- Questions were asked as to why the Cabinet had not discussed alternative options including funding options other than utilising Capital Reserves. The Executive Director Place stated that there were a number of thoughts as to what aspects of the scheme could be excluded in order for costs to be reduced (reduced landscaping/security etc), however, on balance it was felt that these should be included and, therefore, a number of alternatives had indeed been explored. The view of the Finance Service was to allocate the £3.05m as part of the Medium-Term Financial Strategy. Reference was made to the way in which schemes were prioritised and to the advice of the Section 151 Officer, particularly in relation to the use of reserves. These reserves and their use were externally audited and assessed in terms of CIPFA requirements. He felt that the alternatives had been examined closely but, in addition, it was important to ensure that the planning conditions were met. The market had been tested and no additional finance would have been forthcoming from the Sheffield City Region. The Leader commented that he had already sought advice as to alternative funding sources, but all other options had been closed off.
- Arising out of the above, reference was made to the way in which the Council utilised savings from other Capital Schemes in order to build up the Capital Reserves pot. A strategic view was then made as to where this finance should be allocated
- An explanation was given as to the reasons for the redactions to the report which was because of commercial sensitivity in relation to the winning tender price for the Civil Works Contract. It would be unredacted following the completion of the procurement and legal processes

The Chair thanked Members of the Committee and 'objecting' Members for their questions, and Officers and the Leader of the Council for their responses.

Closing Statements were then invited by the Chair.

Councillor Fielding thanked both Members and officers for attending the meeting and for answering questions. He didn't feel, however, that the concerns expressed in the call-in had been fully addressed. The concerns around escalating costs and why these had not been brought to the Council's attention earlier had not been satisfactorily answered. He felt he had presented a fairly clear case as to why it would have been expected to see some costs for the ground stabilisation works included, as he felt it was self-evident that time that ground stabilisation was needed. He accepted that the extent of the ground stabilisation couldn't have been foreseen fully until the intrusive investigation had been undertaken. What he also cast doubt on was that it wasn't possible to do that intrusive work prior to the bids being submitted so that there was a better reflection of the costs. It was normal practice on most development sites that when planning applications were submitted, they were accompanied by the results of intrusive investigations and he was sure that this could not be seen as predetermining any planning application. He felt, therefore, that these investigations could have been undertaken earlier as in fact they had been for the footbridge scheme.

He was not satisfied that a better approach could not have been made about estimating costs and the funding required. Similarly, the noise insulation scheme

was a statutory requirement and had been referred to prior to the first Cabinet report as was the need for security. He still, therefore, felt that there was a strong case for having some sort of audited investigation into how the costs were arrived at, how the scheme was managed throughout and why issues hadn't been brought to the Council's attention earlier. This would enable lessons to be learned for the future.

Matt Gladstone, Executive Director Place commented that the completion of this scheme was a fundamental requirement to provide sufficient capacity to meet current and future projections for the borough. For the reasons discussed today, he felt the need to ask Cabinet to release the additional £3.05m for the award of the contract which would enable the Civil Works to be completed. As outlined, this was a target price for the contractor, the market had been tested in the current climate and as demonstrated, the COVID impact on travel levels had bounced back up to 90% of 'normal' and it was, therefore, critical that the scheme progressed.

RESOLVED that the Scrutiny Committee supports the Cabinet's original decision, this decision stands and can be implemented from the date of this meeting.

Chair