

Decision Report – Key decision

– 16 August 2017

Contract award for the provision of highway improvements at Yeovil Western Corridor following re-procurement

Cabinet Member(s): Cllr John Woodman – Cabinet Member for Highways and Transport

Division and Local Member(s): Cllr Andy Kendall (Yeovil Central); Cllr Tony Lock (Yeovil East); Cllr Faye Purbrick (Yeovil South); Cllr Jane Lock (Yeovil West); Cllr Josh Williams (Brympton); Cllr Mark Keating (Coker).

Lead Officer: Mike O’Dowd-Jones - Strategic Commissioning Manager, Highways and Transport.

Author: Mike O’Dowd-Jones - Strategic Commissioning Manager, Highways and Transport.

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	Seen by:	Name	Date
	County Solicitor	Honor Clarke	17/7/2017
	Monitoring Officer	Julian Gale	20/7/2017
	Corporate Finance	Kevin Nacey	20/7/2017
	Human Resources	Chris Squire	20/7/2017
	Property / Procurement / ICT	Richard Williams	20/7/2017
	Senior Manager	Paula Hewitt Michele Cusack	20/7/2017 20/7/2017
	Local Member(s)	Cllr Andy Kendall Cllr Tony Lock Cllr Faye Purbrick Cllr Jane Lock Cllr Josh Williams Cllr Mark Keating	26/7/2017 26/7/2017 26/7/2017 26/7/2017 26/7/2017 26/7/2017
	Cabinet Member	Cllr John Woodman Cabinet Member for Highways and Transport	20/7/2017
	Opposition Spokesperson	Cllr Mike Rigby Highways and Transport	26/7/2017
	Relevant Scrutiny Chairman	Cllr Tony Lock for Scrutiny Place	26/7/2017
Forward Plan Reference:	FP/17/06/08		
Summary:	<p>The Yeovil Western Corridor transport scheme has been developed over a number of years to accommodate planned growth in the surrounding area of Yeovil.</p> <p>It was selected to be funded as part of the Heart of the South West Local Transport Board Scheme Prioritisation Process subject to the submission of a successful business case.</p>		

	<p>In June 2017 a decision was taken by the Leader of the Council to abandon a previous procurement process and commence a new procurement process for provision of the scheme.</p> <p>This has now been completed and this Key Decision needs to be taken to award the contract.</p> <p>The Tender Evaluation Report is attached as Confidential Appendix A.</p>
<p>Recommendations:</p>	<p>That the Cabinet</p> <ol style="list-style-type: none"> 1. Agrees to award a contract for highway junction improvements and associated works at Yeovil Western Corridor to the supplier identified in Appendix A, following a competitive process. 2. Agrees the case for exempt information for Appendix A to be treated in confidence, as public disclosure of the commercially sensitive data contained within would prejudice the Council's position in ensuring competitiveness of future tender processes. 3. Agree to exclude the press and public from the meeting where there is any discussion at the meeting regarding exempt or confidential information (Appendix A). <p>Exclusion of the Press and Public To consider passing a resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to exclude the press and public from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, within the meaning of Schedule 12A to the Local Government Act 1972:</p> <p>Reason: Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>The County Council reserves the right to not proceed with the award of a contract should new information come to light during the standstill period and/or before entering into a contract. In this instance, it is recommended that the relevant Service Director and Commercial and Business Services Director be given joint delegated</p>

	<p>authority to take any necessary action to protect the Council interests - this could include a decision not to enter into a contract and go back out to market.</p>
<p>Reasons for Recommendations:</p>	<p>Appendix A contains commercially sensitive information relating to the tender submissions. Detailed commercial reasons for these recommendations are set out in that Appendix.</p> <p>This transport scheme has been developed to reduce congestion and to improve the pedestrian and cycling environment whilst also taking into account the planned development proposals in Yeovil as defined in the South Somerset Local Plan.</p> <p>A funding package to cover the cost of the contract is in place via funding contributions from The LEP Local Transport Board (LTB) Local Growth Fund, developer contributions and the SCC capital programme</p> <p>This decision will allow the Council to award a contract, following the competitive tender process which has identified the most economically advantageous tender for the works.</p> <p>This decision now needs to be taken to award the contract so that works can commence to ensure delivery on the ground in line with the timetable required to accommodate housing and economic growth in the area and to meet the requirements of the Local Enterprise Partnership as a key funding body.</p> <p>A significant amount of expenditure has already been incurred in the development and advance works associated with the scheme such as utility diversions and vegetation clearance.</p>
<p>Links to Priorities and Impact on Service Plans:</p>	<p>The proposed major transport scheme is a major investment in transport infrastructure in Yeovil. This investment in infrastructure would support development and the local economy in Yeovil and further the following objectives of the County Plan:</p> <ul style="list-style-type: none"> • a thriving local economy, which attracts jobs and investment; and • invest in Somerset; improve broadband connections and road links like the A303, to help businesses and residents. <p>The procurement process has followed the principles contained in the Social Value Policy Statement to deliver social value benefits.</p> <p>The scheme is included in the Future Transport Plan 2011-2026, being identified within the Transport & Development Policy</p>

	document as required in order to support housing and economic growth.														
<p>Consultations and co-production undertaken:</p>	<p>Consultations have taken place with the Cabinet Member for Highways and Transport and the Local County Council Members at a meeting to present the schemes in January, March & May 2014 and July 2015. No issues were raised regarding the implementation of a scheme at this location.</p> <p>South Somerset District Council councillors were presented the schemes in January 2014 and July 2015, again no issues were raised regarding the implementation of a scheme at this location.</p> <p>Somerset County Council undertook a public consultation event in Yeovil in May 2014, this was in addition to the further public consultation that was undertaken by the LTB once the scheme has been submitted.</p> <p>The general public have been consulted on the inclusion of the Yeovil Western Corridor within the LTB major scheme programme. This was undertaken by the LTB.</p> <p>The scheme has been discussed with a number of local stakeholders a various points in its development including individual local County and District Council members, the Town Council and Chamber of Commerce.</p>														
<p>Financial Implications:</p>	<p>The Yeovil Western Corridor is a transport scheme that helps to deliver approximately 1500 dwellings and 19.5 hectares of employment land. This will help to deliver housing and economic targets as well as helping to release New Homes Bonus revenue and business rates that will support the Council's financial situation.</p> <p>A recent review of the funding package and developer contributions (taking latest indexation into account) concludes that up to £16.148m is currently available for the scheme comprising:</p> <table border="1" data-bbox="528 1630 1449 1973"> <thead> <tr> <th>Funding source</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>LEP Local Growth Fund</td> <td>Up to £6.49m</td> </tr> <tr> <td>S106 contributions already received</td> <td>£0.842m</td> </tr> <tr> <td>S106 contributions now due</td> <td>£2.776m</td> </tr> <tr> <td>S106 contributions yet to reach trigger points and which will require SCC to cashflow until triggers met.</td> <td>£1.190m</td> </tr> <tr> <td>SCC capital programme contingency</td> <td>£4.850m</td> </tr> <tr> <td>TOTAL</td> <td>£16.148m</td> </tr> </tbody> </table> <p>By the end of June 2017 approximately £1.3m had been spent on scheme development and advance preparatory works following earlier decisions to proceed with advance works.</p>	Funding source	Value	LEP Local Growth Fund	Up to £6.49m	S106 contributions already received	£0.842m	S106 contributions now due	£2.776m	S106 contributions yet to reach trigger points and which will require SCC to cashflow until triggers met.	£1.190m	SCC capital programme contingency	£4.850m	TOTAL	£16.148m
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	<p>The estimated scheme cost is currently being finalised following completion of the tender process with final sums such as risk allocations and land values currently being calculated. The tender price confirms that the scheme is deliverable within the funding package available.</p>					
Legal Implications:	<p>The procurement process undertaken complied with the requirements of the Public Contracts Regulations 2015. The NEC 3 Contract provides a mechanism for dealing with risks and the associated costs of those risks as they arise.</p>					
HR Implications:	<p>HR implications have been considered and no issues have been identified.</p>					
Risk Implications:	<p>A suitable supplier has been identified as part of the procurement process.</p> <p>If the decision is not implemented there is a business and reputational risk related to the Council not delivering major transport schemes and would affect the ability of the Council to deliver future investment in transport infrastructure.</p> <p>Not selecting a contractor would delay the scheme being delivered and the wider economic benefits may not be realised.</p> <p>Delay in delivery of the scheme would increase the risk of the Local Enterprise Partnership reviewing its financial contribution to the scheme.</p>					
	Likelihood	1	Impact	4	Risk Score	4
Other Implications (including due regard implications):	<p>There will be road closures and diversions in place when the works are being completed which will mean restricted access to the community for the duration of the works.</p> <p>Implications for equality & diversity, human rights, community safety, sustainability, FOI and data protection have been considered and no issues have been identified.</p> <p>All tenderers have given due regard to the awareness and application of the equalities, social and economic requirements of the Council. The contract documents will include requirements regarding monitoring of the successful Contractors' compliance</p> <p>An Equalities Impact Assessment has been completed.</p>					
Scrutiny comments / recommendation (if any):	<p>Not applicable.</p>					

1. Background

- 1.1.** The Yeovil Western Corridor transport scheme has been developed over a number of years to accommodate planned growth in the surrounding area of Yeovil. A total of 1,547 dwellings are proposed by residential developments at Brimsmore (830) and Lufton (717) and a 16 hectare site at Bunford Park has planning permission for B1 employment. The Western corridor will also serve a 4.5 hectare site of predominately B1 employment at Lufton which also has planning permission. The scheme will help to deliver housing and economic targets as well as helping to release New Homes Bonus revenue and business rates that will support the Council's financial situation.
- 1.2.** The outline business case for the Yeovil Western Corridor was submitted to the Local Transport Board. This was approved April 2014 and the next step was for Officers to work up the Full Approval Business Case. As part of this work an appropriate decision was taken undertake the procurement process and land acquisition activities.
- 1.3.** The project will deliver a number of transport infrastructure improvements including junction improvements, new footway/cycleway and new and improved pedestrian/cycle crossing facilities. The proposed junction improvements are based on the latest forecast traffic flows derived from the Yeovil Traffic Model which has recently been updated in accordance with the most appropriate relevant guidance. The current proposals are considered to be best suited to accommodate future travel patterns on the local transport network and without this intervention, the issues identified will hold up current planned growth.
- 1.4.** The local highway network is forecast to suffer from significant congestion problems in the future, and currently experiences capacity problems during the morning and evening peak periods. If the junctions are not improved there will be an increase in peak hour delays and journey times caused by increases in traffic flows and the associated worsening of severance issues affecting pedestrian and cycle movements. The existing junctions have insufficient capacity to accommodate planned development and traffic growth to 2028, and the improvements will allow the junctions to operate effectively with that additional growth. The scheme has been forecast to reduce journey times in 2028 by up to 36% in the morning peak and 27% in the evening peak.
- 1.5.** Pedestrian and cycle facilities on the Western Corridor are limited and do not provide good access to homes, shops and workplaces. The existing crossing facilities provided at junctions can be difficult to use when traffic flows are high creating severance issues and dropped crossing provision is currently inconsistent.
- 1.6.** The scheme provides very good value for money with the economic benefit of reduced traffic delay estimated at £123m, and provides an estimated £1.384m saving in the cost of collisions.
- 1.7.** Extensive consultation has taken place since 2014 with Elected Members from Somerset County Council and South Somerset District Council. Presentations have also taken place to the Chamber of Commerce. A communications plan has been drafted which details stakeholders and proposed actions.

- 1.8.** The successful contractor has provided a stakeholder management plan incorporating customer care and relations with the public, landholders and local residents. The successful contractor will provide a public liaison officer and develop a Communications and Customer care plan which will provide a structured framework for communications activities.
- 1.9.** The plan will include writing to stakeholders with details of the proposed works and provide contact details. An information centre will be established to act as a central point for discussions to take place and access to project information. A web page will be set up along with social media feeds. Works will be carefully managed to minimise disruption, particularly during events such as football matches.
- 1.10.** There will be weekly meetings on site which will allow integration with SCC's communications team and press office.
- 1.11.** The procurement objective for the project was to ensure that the most suitable supplier was selected to deliver a programme of works including the provision of all associated Labour, Materials and Design to deliver the Improvement works.
- 1.12.** A procurement process was developed for the project to ensure:

 - Better cost certainty over the life of the scheme;
 - The scheme at tender stage remains within the budgetary constraints;
 - Appropriate conditions of contract were put in place;
 - Development of an approach for commercial and technical delivery through a strong professional client team. The existing SCC team will be supplemented by an external 'NEC3' Technical Project Manager.
- 1.13.** Cabinet took a decision in April 2017 to award a contract for construction of the scheme following a procurement process which included an evaluation of tender submissions.
- 1.14.** Cabinet's decision allowed the contract to be awarded following the satisfactory completion of the remaining procurement procedures which include a mandatory standstill period enabling the market and participants to respond to the proposed award, and to allow finalisation of the contractual arrangements between the parties.
- 1.15.** Issues arose following Cabinet's decision such that it was recommended that it was not in the best interests of the Council or our communities to complete the award of the contract, and a decision was taken by the Leader of the Council in June 2017 to abandon that procurement process and commence a new procurement process for provision of the scheme. The reasons for this decision are set out in a confidential (legally privileged) appendix to that decision.
- 1.16.** Amendments were made to procurement process to avoid similar issues arising again, and tenders submitted under the new process have now been received and evaluated as summarised in the confidential appendix to this report.
- 1.17.** It is proposed that immediately following the cabinet decision and after sufficient time has elapsed for scrutiny call-in, letters will be issued to the successful and unsuccessful tenderers allowing the mandatory standstill period to commence. Should no market challenge arise, the contract may commence immediately

following the expiry of the standstill period, whereupon a Contract Award Notice shall be published in the Official Journal of the European Union.

2. Options considered and reasons for rejecting them

2.1. Options considered included:

- Utilise the existing highway term maintenance contract.
- Join an existing framework contract procured by another Authority.
- Utilise a National framework.
- Procure a dedicated new contract for the scheme.

2.2. Due to the value of the scheme, and the desire to specify particular terms and conditions of contract it was decided to undertake a dedicated procurement under the European Procurement rules, utilising Option A of the NEC Contract. The procedure followed the open procurement procedure.

3. Background Papers

3.1. Cabinet decision to award a contract for Yeovil Western Corridor. April 2017. Accessed from www.somerset.gov.uk.

3.2. Leader decision to abandon procurement of a contract for Yeovil Western Corridor and launch a new procurement process. June 2017. Accessed from www.somerset.gov.uk.

Equality Impact Assessment Form and Action Table 2015

(Expand the boxes as appropriate, please see guidance (www.somerset.gov.uk/impactassessment) to assist with completion)

"I shall try to explain what "due regard" means and how the courts interpret it. The courts have made it clear that having due regard is **more than having a cursory glance** at a document before arriving at a preconceived conclusion. Due regard requires public authorities, in formulating a policy, to give equality considerations the weight which is **proportionate in the circumstances**, given the potential impact of the policy on equality. It is not a question of box-ticking; it requires the equality impact to be **considered rigorously and with an open mind.**"

Baroness Thornton, March 2010

What are you completing the Impact Assessment on (which policy, service, MTFP reference, cluster etc)?

Decision Paper for FP/15/04/04. Authorising the award of a contract to undertake a capacity improvement scheme at Yeovil Western Corridor

Version

2

Date

20/03/2017

Section 1 – Description of what is being impact assessed

The decision is to award a contract for the construction and delivery of the Yeovil Western Corridor highway junction improvements and associated works.

Section 2A – People or communities that are targeted or could be affected (taking particular note of the Protected Characteristic listed in action table)

It has been identified that the existing transport network would not be able to accommodate the growth planned for the Yeovil area without significant increases in journey times and delays. This means that the community as a whole, will benefit from this scheme as the aim is to reduce congestion, improve facilities for pedestrians and cyclists and support the economy of Yeovil.
There will be road closures and diversions in place when the works are being completed which will mean restricted access to the community for the duration of the works.

Section 2B – People who are delivering the policy or service

Commissioning has undertaken the initial scoping work with procurement and operations to ensure viability. The chosen contractor will undertake the works and will be obliged to adhere to agreed policy and working practices including personal conduct on a daily basis on site.

Section 3 – Evidence and data used for the assessment (Attach documents where appropriate)

An Options Assessment Report was completed as part of the Business Case process which identified several options and reasons why they were discarded. Environmental and ecological stakeholders were consulted and an information session was held for the community.

Section 4 – Conclusions drawn about the equalities impact (positive or negative) of the proposed change or new service/policy (Please use **prompt sheet** in the guidance for help with what to consider):

Works may involve disruption to existing pedestrian crossings which may impact on people with protected characteristics, particularly older people, children and people with

limited mobility such as wheelchair users.

The scheme and associated traffic management during construction will be designed to appropriate standards of accessibility to meet the needs of all users including provision of appropriate lighting and other facilities (such as footways and crossings) which meet the needs of people with disabilities.

Traffic management and footway diversion plans should be designed to ensure their needs are taken into account.

Once the scheme has been completed, it is likely to have a positive impact overall.

If you have identified any negative impacts you will need to consider how these can be mitigated to either reduce or remove them. In the table below let us know what mitigation you will take. (Please add rows where needed)

Identified issue drawn from your conclusions	Actions needed – can you mitigate the impacts? If you can how will you mitigate the impacts?	Who is responsible for the actions? When will the action be completed?	How will it be monitored? What is the expected outcome from the action?
Age			
Elderly pedestrians impacted whilst works are being carried out.	Traffic management and footway diversion plans will need to be designed to accommodate appropriate levels of accessibility	SCC/Contractor	Design review. No impact
School age children impacted whilst works are being carried out	Traffic management and footway diversion plans will need to be designed to accommodate appropriate levels of accessibility and volume of movements.	SCC/Contractor	Design review. No Impact.
Disability			
Disabled pedestrians impacted whilst works are being carried out	Traffic management and footway diversion plans will need to be designed to accommodate appropriate levels of accessibility	SCC/Contractor	Design review. No impact
Gender Reassignment			
N/A			
Marriage and Civil Partnership			
N/A			
Pregnancy and Maternity			
N/A			
Race (including ethnicity or national origin, colour, nationality and Gypsies and Travellers)			
N/A			
Religion and Belief			

N/A			
Sex			
N/A			
Sexual Orientation			
N/A			
Other (including caring responsibilities, rurality, low income, Military Status etc)			
N/A			

Section 6 - How will the assessment, consultation and outcomes be published and communicated? E.g. reflected in final strategy, published. What steps are in place to review the Impact Assessment

Non sensitive items are being published for the public to see. There is a monitoring and evaluation plan in place to assess the scheme over a period of 5 years.

Completed by:	Nisha Devani
Date	20/03/17
Signed off by:	Mike O'Dowd - Jones
Date	20/03/17
Compliance sign off Date	23/03/17
To be reviewed by: (officer name)	Sunita Mills
Review date:	01/04/18