

Decision Report – Key decision

– 13 December 2017

Decision to conclude the award of a contract for the provision of highway improvements at Colley Lane Southern Access Road

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

Division and Local Member(s): Cllr David Loveridge, Cllr Leigh Redman and Cllr Bill Revans

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

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	Seen by:	Name	Date
	County Solicitor	Honor Clarke	22/11/17
	Monitoring Officer	Julian Gale	23/10/17
	Corporate Finance	Kevin Nacey	
	Human Resources	Chris Squire	23/10/17
	Property / Procurement / ICT	Richard Williams	01/12/17
	Senior Manager	Paula Hewitt Michele Cusack Alyn Jones	27/12/17
	Local Member(s)	Cllr David Loveridge Cllr Leigh Redman Cllr Bill Revans	23/10/17 23/10/17 25/10/17
	Cabinet Member	Cllr John Woodman Cabinet Member for Highways and Transport	23/10/17
	Opposition Spokesperson	Cllr Mike Rigby Highways and Transport	23/10/17
	Relevant Scrutiny Chairman	Cllr Tony Lock for Scrutiny Place	23/10/17
Forward Plan Reference:	FP/17/09/13		
Summary:	<p>The Colley Lane Southern Access Road (CLSAR) scheme has been in development for in excess of 10 years The procurement process 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>		

Recommendations:

That the Cabinet

- 1. Agrees to award a contract for highway improvements and associated works to deliver the Colley Lane Southern Access Road to the supplier identified in Appendix A, following a competitive process.**
- 2. Agrees to allocate a maximum sum of £4.004m towards the scheme funded from the Council's capital programme to ensure scheme construction can commence whilst other funding sources continue to be explored. A proportion of this is contingency funding released from other major transport projects.**
- 3. 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.**
- 4. 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).**

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:

Reason: Information relating to the financial or business affairs of any particular person (including the authority holding that information).

- 5. 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 ECI Commissioning Director and the Director of Commercial and Business Services be given joint delegated authority to take any necessary action to protect the Council interests - this could include**

	<p>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 access to Bridgwater. Significant developer contributions have been secured, in particular in connection with housing developments in South Bridgwater. A contribution has also been secured in connection with the Hinkley Point C project given the importance of the scheme helping to manage traffic flows.</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 timely delivery on the ground.</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 Bridgwater. This investment in infrastructure would support development and the local economy 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.</p>
<p>Consultations and co-production undertaken:</p>	<p>The opposition spokesperson, Scrutiny Chair for Policies and Place and local Members are being consulted as part of this decision process. Any comments received will be incorporated into the final version of the report.</p> <p>The Bridgwater CLSAR is part of both the Taunton/Bridgwater/Wellington Transport Strategy and the Local</p>

	<p>Transport Plan. It has therefore been the subject of substantive public consultation.</p> <p>Public consultation took place as part of the planning process in 2015 and no objections were received. Planning permission (1/08/15/054) was granted on 15 March 2015 subject to a number of conditions. Prior to commencement of delivery of the scheme SCC will be required to discharge conditions as set out in the planning approval.</p> <p>Discussions with affected landowners and local residents have taken place throughout the development of the scheme.</p> <p>Consultation took place through the CPO process.</p>												
<p>Financial Implications:</p>	<p>A recent review of the funding package and developer contributions (taking latest indexation into account) concludes that up to £18.384m is currently available for the scheme comprising:</p> <table border="1" data-bbox="544 925 1466 1153"> <thead> <tr> <th>Funding source</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>EDF S106 contributions</td> <td>£2.0m</td> </tr> <tr> <td>Persimmon and Bloor S106 contributions</td> <td>£9.38m</td> </tr> <tr> <td>DfT Productivity Investment Fund</td> <td>£3.0m</td> </tr> <tr> <td>SCC capital programme</td> <td>£4.004m</td> </tr> <tr> <td>TOTAL</td> <td>18.384</td> </tr> </tbody> </table> <p>The terms of the South Bridgwater S106 agreement enable funds to be drawn from the developers as payments are incurred on the scheme. i.e. retrospectively. The two main developers (who are between them solely responsible for the relevant payments in accordance with percentages set out in the S106), Persimmon and Bloor are currently making appropriate payments when due.</p> <p>By the end of Sept 2017 approximately £2.51m developer contributions had been spent on scheme development and advance preparatory works following earlier decisions to proceed with advance works.</p>	Funding source	Value	EDF S106 contributions	£2.0m	Persimmon and Bloor S106 contributions	£9.38m	DfT Productivity Investment Fund	£3.0m	SCC capital programme	£4.004m	TOTAL	18.384
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SCC capital programme	£4.004m												
TOTAL	18.384												
<p>Legal Implications:</p>	<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>												
<p>HR Implications:</p>	<p>HR implications have been considered and no issues have been identified.</p>												

Risk Implications:

A suitable supplier has been identified as part of the procurement process.

If the decision is not implemented there is a business and reputational risk related to the Council not delivering major transport infrastructure.

Not selecting a contractor would delay the scheme being delivered and the wider economic benefits may not be realised.

The developer funding contributions are drawn down in arrears, which presents a risk that SCC would have to cover any costs in the event that the developers refused or delayed payment. This is considered a low risk as developers are currently meeting requirements for payment.

The scheme is a complex engineering project that is being constructed in challenging ground conditions; there is a significant element of risk to this however SCC has used technical experts to understand the ground conditions and to design the structures involved. There is significant transfer of risk to the contractor which will ensure the risk surrounding scheme costs escalating over the life of the project is reduced. The contract is on an Option A basis which means that risks around quantities against the design are taken by the contractor.

A full risk assessment for the scheme has been completed and an allocation for risk has been included within the cost estimate.

Likelihood	2	Impact	3	Risk Score	6
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<p>Other Implications (including due regard implications):</p>	<p>The works are largely off-line and away from the main arterial routes into the town. There will be limited road closures and diversions in place when the works are being completed which will mean restricted access to a small section of the community for a period of time during 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>Equalities Implications The scheme includes improvements to pedestrian and cycling links and increases accessibility across the town for both motorised and non-motorised modes. In particular it provides significantly improved access to the Colley Lane from south Bridgwater where new cycling connections have recently been completed.</p> <p>Community Safety Implications The scheme provides a safer environment for pedestrians and cyclists via dedicated pedestrian and cycle facilities.</p> <p>Sustainability Implications The scheme encourages sustainable travel via dedicated pedestrian and cycle facilities.</p> <p>Health and Safety Implications Highways improvement contracts require robust health and safety procedures to be in place. In particular safe working practice on the highway and how contractors' health and safety performance will be monitored generally.</p> <p>Privacy Implications Privacy implications have been considered and no issues have been identified.</p> <p>Health and Wellbeing Implications The scheme encourages health and wellbeing via the sustainable travel benefits set out above in respect of enabling walking and cycling.</p> <p>An Equalities Impact Assessment has been completed.</p>
<p>Scrutiny comments / recommendation (if any):</p>	<p>Not applicable.</p>

1. Background

- 1.1. The Colley Lane Southern Access Road (CLSAR) is a proposal to construct a new carriageway in Bridgwater to provide access into the Colley Lane Industrial Estate from the South. The new road will run in a southerly direction from Parrett Way to Marsh Lane with a new roundabout at the existing Marsh Lane/Showground Road junction. The proposals are being funded through contribution towards transport infrastructure in South Bridgwater, secured through legal agreements with developers.
An updated cost estimate has been completed and additional funding over and above the original allocation has been secured
- 1.2. The Bridgwater Transport Study identifies the CLSAR as being of primary importance to the management of traffic in Bridgwater. The Colley Lane Industrial Estate can only be accessed from the A39 north of the estate. This means vehicles travelling from the south must use the A38 Taunton Road and Broadway, before turning back south into the estate via Salmon Parade.
- 1.3. The provision of the CLSAR will enable vehicles from the south to enter and exit the estate without passing along Broadway and Taunton Road.
The Scheme involves:
 - The construction of a new bridge over the Bridgwater and Taunton Canal
 - The construction of a new bridge over the River Parrett
 - The provision of a roundabout at the Showground Road / Marsh Lane junction
 - The construction of 840 metres of new carriageway
 - The widening / realigning of 100 metres of existing road
 - The provision of pedestrian and cycle facilities
 - The provision of 4 junctions, incorporating 'right turning' lanes, where appropriate, to maintain / enhance existing access arrangements.
- 1.4. The CLSAR will provide a link for heavy goods vehicles to gain access to the Colley Lane Industrial Estate, from Junction 24 of the M5 motorway.
The CLSAR will also improve the access to areas of land between the Bridgwater and Taunton Canal and the River Parrett, as well as the area between the River Parrett and the southern units of the Colley Lane Estate.
- 1.5. The new route will also improve connectivity for pedestrians and cyclists by creating better links across the waterways and help to manage pollution along Taunton Road by providing an alternative route.
- 1.6. SCC has been developing the scheme and been through various stages of design. In 2015 the scheme was granted planning permission and subsequently land acquisition has been completed through the compulsory purchase order process.
- 1.7. The Cabinet Member for Highways and Transport took the key decision to commence the procurement and undertake the advance works on 19th August 2016.

- 1.8.** 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.
- 1.9.** 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.
- 1.10.** The Invitation to Submit Initial Tender allowed for SCC to down select a number of suppliers to take through to a negotiation phase before a final tender submission and selection of the most economically advantageous tender. The purpose of this was to allow for a negotiation on price should the initial submissions prove unaffordable. On this occasion the evaluation of the initial tender has provided a response that is within the budget for the project and therefore SCC will not enter into negotiation.
- 1.11.** 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.
- 1.12.** 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.
- 1.13.** There will be weekly meetings on site which will allow integration with SCC's communications team.
- 1.14.** 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. FP/16/07/02 - Key decision - Colley Lane Southern Access Road Procurement and Advance Works

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)?

FP/17/09/13

Version

1

Date

20/11/17

Section 1 – Description of what is being impact assessed

The Colley Lane Southern Access Road (CLSAR) is a proposal to construct a new carriageway in Bridgwater to provide access into the Colley Lane Industrial Estate from the South. The new road will run in a southerly direction from Parrett Way to Marsh Lane with a new roundabout at the existing Marsh Lane/Showground Road junction. The original estimated cost of the scheme was £11.5 million. The proposals are being funded through contribution towards transport infrastructure in South Bridgwater, secured through legal agreements with developers.

An updated cost estimate has been completed and additional funding over and above the original allocation has been secured.

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

Local residents and the travelling public by all modes of transport.

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

Contractors on behalf of SCC.

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

Consideration of contractor's proposals for scheme delivery. Understanding of existing local movements.

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.

There is not expected to be any disruption to public transport.

Through their tender submission the preferred contractor has committed to a communications plan that includes signing up to the Considerate Contractor scheme.

They have set out how they will minimise and manage any negative publicity, this would include interactions with individuals passing the site as well as local residents and key stakeholders.

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 Project Manager/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 Project Manager/Contractor	Design review. No impact
Gender Reassignment			
N/A			
Marriage and Civil Partnership			
N/A			
Pregnancy and Maternity			
Pregnant women or those with pushchairs 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 Project Manager / Contractor	Design review. No impact
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.	
Completed by:	Sunita Mills
Date	04/10/17
Signed off by:	Mike O'Dowd - Jones
Date	20/11/17
Compliance sign off Date	22/11/17
To be reviewed by: (officer name)	Sam Evers
Review date:	12/10/2017