

Urgent Decision under Delegated Powers

Officer Requesting Decision

Strategic Director - Community, Planning and Housing

Officer Making the Decision

Chief Executive

Recommendations

1. To Approve Option 3 in table below and this will increase Bedford Square Gateway Capital Project from £2,025,600 to £3,869,000 an increase in costs of £1,843,400. (Funded by £1,700,000 from the from the Town Deal Fund, and £143,400 from Capital Receipts)
2. That the contractor is instructed to commence work on phases E and F of the Bedford Square Gateway Project and including the pre-order of specific materials
3. That as and when received, future funding from the Town Deal Fund in respect of Bedford Square will be added to the Bedford Square Gateway Capital Project and reported in the Capital Amendment Report.

Reasons

- 1&2. To take urgent action in relation to a matter which would otherwise have been submitted to full Council, specifically: and to ensure that delays to the construction programme are minimised
3. To ensure that funding for the Bedford Square Gateway Capital Project is appropriately reflected in the Capital Plan.

Authority for Decision

Delegation of Council functions - Section 8.2 of the Constitution states that the Chief Executive, Strategic Directors and Heads of Service can take such action as is required in the case of an emergency or urgency subject to:

- (i) consultation with the Mayor, the Chair of the relevant committee, or, in the Chair's absence, the Vice-Chair;
- (ii) consultation with the Chief Executive and relevant Strategic Directors in each case; and
- (iii) a report on the action taken being made to the next meeting of the Council or relevant committee, as appropriate.

The transfer of capital funding of the value sought can be regarded as a change to the Capital Plan which would be a Council decision in the normal course of business. Therefore, Section 8.2 of the Constitution is applicable in this case.

Decision and Date

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15th October 2021

Background

Policy Justification and Previous Decisions

The Corporate Plan 2016 – 2020 is committed to the creation of a strong and lasting economy in Charnwood. In support of that overarching commitment the plan aims to support initiatives which will support our towns and villages to thrive and specifically calls for the preparation of a new and revitalised town centre masterplan for Loughborough.

The masterplan was approved by Cabinet on 12 April 2018 (Cabinet Minute 120: 17/18 refers) and recommended a series of improvements to the public realm between each of the major gateways to the town centre and the pedestrianised area at its core. It specifically endorsed the principle of improvements to the Bedford Square Gateway, including Ward's End and Devonshire Square, which had been the subject of an earlier public consultation exercise.

The new Corporate Strategy 2020-24 sets out the vision to care for the environment, create healthy communities and support a thriving economy. The Bedford Square/Devonshire Square Public Realm Project is expected to make a significant contribution to achieving this vision through the business plan actions for 2020/21 and 2021/22.

Cabinet on 7 May 2020 gave approval for the scheme and authority for a phased approach to the implementation of the scheme design, with authority delegated to the Head of Planning and Regeneration to seek out additional funding, as may be necessary, to deliver the whole scheme (Minute 101: 20/21 refers).

Cabinet on 10 December 2020 gave approval for the implementation of Phases A to D of the scheme and authority to the Head of Planning and Regeneration to seek out additional funding, as may be necessary, to deliver the whole scheme (Minute 69E 2020/21 refers)

Background

The Cabinet report approving the implementation of Phases A to D of the Bedford Square Gateway Project in December 2020 identified a budget shortfall for the whole scheme design and proposed a six-phase approach to implementation.

The total amount of capital funding secured for the project in the Capital Plan is £2.026m. This is made up by external funding of £708k and £1.318m from the Council's own capital reserves.

In October 2020, invitations to tender for the whole scheme (phases A to F) were issued using a Framework provided by Crown Commercial Services. Three tenders were received, and all were significantly higher than the available budget. As per the phased approach to implementation agreed by Cabinet on 7 May 2020, the tenderers were invited to resubmit tenders on the basis of delivering phases A to D, with phases E and F to be held back pending additional funding being secured. In December 2020, Cabinet agreed to appoint Fitzgerald Contractors Limited and the total cost of the scheme was estimated at £2.61m leaving a potential funding shortfall, which was bridged by an 'at-risk' contribution within the capital plan.

The project has experienced some challenges through its implementation as is often the case with large capital construction projects, particularly in town centre locations, including:

- Delays caused by STW's diversion of a water main
- Unexpected underground utilities found in multiple locations across the scheme area and consequential redesign and approval of works
- A burst water pipe in Devonshire Square
- Discovery of a brick culvert in Devonshire Square
- Redesign of Wards End and Devonshire Square works to accommodate revised drainage

Furthermore, delivering a construction project during the pandemic and in a period where there has been a shortage of HGV drivers has presented further challenges including impacts on the supply and cost of construction materials, shipping containers and construction labour.

The programme was expected to be complete by 29 October 2021 in advance of the fair. However, unexpected delays have pushed the construction programme beyond the November fair. The current completion date is now programmed in Mid-March 2022. However, the County Council's moratorium on works to the highway during December 2021 may add further delay to the programme which have not yet been taken into account.

Loughborough Town Deal

Along with 100 other towns in England, Loughborough was invited by government to submit an investment plan for actions that will improve the town and maximise its economic potential. This plan has been submitted and £16.9m awarded to Loughborough to deliver a basket of projects identified by the Town Deal Board. One

such project was Bedford Square Gateway Project which seeks to complete phases E and F of the capital project along with small improvements in scheme quality and connections into the town centre.

Following a process, £1.7m has been secured in principle from government subject to a business case being approved by the Town Deal Board. The business case is to be considered by Board on 12 October 2021 and a funding request is expected to be submitted to government on 15 October 2021 with payment being made in December 2021.

The funding settlement process for the Town Deal has not been clear until very recently and it has not been possible to determine a clear way forward on the construction programme to inform the decision-making procedures necessary to minimise costs to the Council. As such it is not possible to report to a scheduled meeting of cabinet and council to make a decision before 15 October.

Financial assessment and implications

Financial assessment – options available to the Council

Given the issues described above the Council's options may be summarised as follows:

I. Restrict Project to phases A-D only

This would complete work currently underway and delivery would be *relatively* straightforward

However:

- The Project would be incomplete versus the original vision and therefore less satisfactory; the envisaged benefits to Loughborough would be diluted
- Project would be unlikely to secure Town Deal funding

II. Complete Project phases A-D initially and then initiate phases E-F after a delay

In this scenario:

- The Project would be completed in line with the vision
- The Project would be eligible for Town Deal Funding
- Governance processes could be completed without urgency
- More certainty on costings would be achieved

However:

- Additional disruption to town centre / traders would arise
- Additional (duplicative) prelim costs would be incurred

Further, although more certainty on cost would be achieved this would not necessarily reduce the actual cost of delivery (which would be dependent on comparable construction costs at the dates of delivery).

III. Commence phases E-F and run in parallel with completion of phases A-D

In this scenario:

- The Project would be completed in line with the vision
- The Project would be eligible for Town Deal Funding
- Town Centre disruption would be minimised (compared to Option II)
- The approach avoids duplicative 'preliminary' costs

However:

- Council governance would need to be carried out under 'urgency' provisions
- Some initial cost uncertainty (definitive costs of phases E and F could not be ascertained)

It may be noted that assuming the full project is completed, cost of works may not necessarily be more expensive than Option II.

IV. Terminate Project at lowest possible cost

This approach would see the Council cease to deliver the unfinished elements of the Project and make good the public realm disturbed by works to date at the cheapest possible cost. In this event the Council would not be eligible for Town Deal funding and may also forfeit other external funding received. In addition to the financial costs there may be significant reputational damage for the Council.

The comparative financial costs of these Options are assessed as follows:

<i>[Amounts £000]</i>	<i>Option I</i>	<i>Option II</i>	<i>Option III</i>
Completion Phases A-D (based on previous costings)	2,749	2,749	2,749
Completion Phases E-F (estimated)	-	600	600
Additional costs now arising from delay in Phases A-D	111 ¹ 350 ² 21 ³	123 350 21 37 ⁴ 100 ⁵	290 ⁶
TOTAL PROJECTED COSTS	3,231	3,980	3,639
Additional contingency requested	200	200	200
TOTAL FOR CAPITAL PLAN	3,431	4,180	3,869
External funding secured	(708)	(708)	(708)
Town Deal Funding expected		(1,700)	(1,700)
COUNCIL FUNDING REQUIRED	2,723	1,772	1,461

Notes within table

- ¹ Costs for planters and gateway feature taken out of Phases A to D costs
- ² Assumed additional cost for programme delay to Phases A to D
- ³ Revenue income loss for extending use of Southfield Road car park for programme extension
- ⁴ Cost for demobilising compound and then setting it up again
- ⁵ Cost for extending contracts with scheme designers and contract managers
- ⁶ Additional costs minus £183k for running A-D and E-F in parallel

Detailed costings are not available for Option IV but it is estimated that termination costs on top of costs incurred to date could be of the order of £2.5m. Coupled with the loss of Town Deal and (probably) other external funding it is clear that this option is financially unattractive.

Option III is therefore the preferred approach for both financial and non-financial reasons.

Financial Implications

The current capital scheme totals £2,025,600. This is funded by £707.9k of external funding from the LLEP and LCC and £1,317,700 from CBC capital receipts.

Option 111 table above net costs for CBC to fund is £1,461k, CBC has currently £1,318k funding from Capital Receipts, therefore requires a balance of £143k additional funding from Capital Receipts.

The additional Bedford Square Gateway Project costs are **£1.843m**, comprising £1.7m forward funding of the Town Deal Funding and £143k CBC Capital Receipts.

This will increase the total cost of the Bedford Square Gateway Project in the Capital Plan to **£3.869m**.

Reason for urgency

The slippage in the construction programme has been necessitated in part by unexpected delays and redesigns of the scheme to address technical issues and site conditions. This is a normal part of construction projects, particularly in town centre locations. However, additional delays are due to a moratorium on works to the highway during December, which is understood to be a standard condition of the County Council to provide a quiet trading period in the run up to Christmas.

The delay during December will require the construction contractor, project managers and other contractors involved in the scheme to stand idle for the duration at a cost to the Council. The contractor has advised that the Council will be able to maximise efficiencies by bringing forward phases E and F of the scheme into the construction programme at the earliest opportunity while work continues with phases A to D. This will result in only one set of preliminary costs for the extension of time to deliver phases A to D and carrying out work on phases E and F.

Undertaking Phases E and F at the same time as Phases A to D (rather than undertaking Phases E and F after Phases A to D had been completed), a total of £183,000 in costs would be avoided, on the basis of the following:

- The estimated Preliminary Costs for Phases E to F is approximately £125,000.
- The estimated revenue income loss from using the pay and display car park as the welfare compound and materials storage area for Phases E and F is approximately £21,000.
- The estimated cost of demobilising the compound and storage area after Phases A to D and putting it back in place for Phases E and F is approximately £37,000.
- Therefore, by starting Phases E and F during work on Phases A to D a total of £183,000 in costs will be avoided.

The main construction contract provides for the introduction of phases E and F and no further procurement is required. However, to bring forward phases E and F into the programme requires the contractor to be formally instructed. This will trigger a remapping of the construction programme to include phases E and F of the scheme and set in place the critical preliminaries necessary (including, ground surveys and the booking of utility companies to make diversions). It will also trigger the pre-ordering of granite and street columns which have a long lead in time to delivery.

An instruction to the main contractor must be made by 15 October 2021 if the benefits are to be maximised and phases E and F delivered concurrently with the completion of phases A to D. An instruction cannot be made unless there is funding available. £1.7m funding has been identified from the Town Deal but this is not expected to be available until at least December 2021. Therefore, time is of the essence if costs are to be minimised.

The Council has £15m in the capital plan as a regeneration investment fund. The principle of this budget is to invest funds in regeneration schemes that catalyse physical regeneration and also provide a return on investment. It is currently uncommitted. The Bedford Square Gateway Project is a major public realm project and the largest regeneration project undertaken directly by the Borough Council in a generation. It will improve the quality of the public realm in the Bedford Square, Ward's End and Devonshire Square 'independent trading quarter' of the Town Centre, make retail space more desirable, increase footfall and catalyse further regeneration opportunities. Whilst the project is not an investment in a monetary sense (i.e. bringing a return on investment), it will catalyse regeneration and support post-pandemic economic recovery. £1.7m of capital from the regeneration investment fund is therefore sought for the Bedford Square Gateway scheme to bridge the time period until the Town Deal funds are secured. The fund will then be replenished.

Consultations

The Mayor, Councillor Paul Baines was consulted and stated "I fully concur with the recommendation to vire funding from the Regeneration Investment Fund to support the continuance of the Bedford Square Project in the interim until funding from government is received".

The Leader and Lead member for Regeneration have been consulted on this proposal along with the Chair of Scrutiny Commission. They are both supportive of the proposed decision.

The Chief Executive and relevant SLT members have concluded that the recommendations of this report are both necessary and urgent.

Risks

The risks associated with the decision Council is being asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Overall Risk	Risk Management Actions Planned
That the Town Deal will not provide the sum of money required in whole or part	Remote (1)	Major (4)	Low (4)	The money has been allocated by government but must be drawn down following a process. Resources have been targeted at completing the necessary steps to ensure the funding is approved in a timely fashion.
Restrictions imposed by Govt. arising from COVID-19 leading to delays in construction programme and increased costs.	Likely (3)	Serious (3)	Moderate (9)	Construction programme includes contingency to accommodate delay. Contractor set out clear plan to respond to prevailing restrictions. Communication Plan set out measures to mitigate impact on local businesses and residents.
Insufficient resources secured to deliver the whole scheme.	Likely (3)	Serious (3)	Moderate (9)	Scheme designed to provide flexibility to implement street works in phases, according to availability of resources
Delays during preparation of detailed design and construction phase	Likely (3)	Significant (2)	Moderate (6)	Robust Project Plan and project management and monitoring procedures.
Inability to appoint highway contractors with appropriate capacity, skills and experience	Likely (3)	Significant (2)	Moderate (6)	Use of approved Frameworks including those provided by Crown Commercial Services Limited to pre-qualify

Risk Identified	Likelihood	Impact	Overall Risk	Risk Management Actions Planned
due to national economic situation				potential contractors prior to procurement.

Key Decision: No

Date included on Forward Plan N/A

Background Papers: None