

Cabinet

Date of Meeting: 10 September 2019

Report Title: Poynton Relief Road, Final Approval to Underwrite Funding Gap, Appoint Winning Contractor and Submit Final Business Case

Portfolio Holder: Cllr Craig Browne, Deputy Leader

Senior Officer: Frank Jordan, Executive Director of Place

1. Report Summary

1.1. The purpose of this report is to:

- 1.1.1. Seek approval to submit the final funding application to the Department of Transport (DfT) to release funding towards the construction of the Poynton Relief Road scheme (the Scheme).
- 1.1.2. To seek approval to award the Preferred Bidder a contract to deliver the Scheme (the Contract).
- 1.1.3. To set out the final estimated cost of the Scheme, the breakdown of funding contributions and the proposed delivery programme.
- 1.1.4. To confirm the Council's previous commitment to underwrite any shortfall in funding that may emerge.
- 1.1.5. To authorise the Executive Director of Place to undertake all necessary preparatory works in advance of the final funding decision in order to ensure the Council is positioned to deliver the Scheme once the final funding decision has been made.
- 1.1.6. Note: the Appendices to this report contain exempt information and will be considered in Part 2 of the agenda.
- 1.1.7. A brief summary of the Scheme and the benefits it provides to the Borough is set out in Section 5 of this report.

2. Recommendations

2.1. That Cabinet :

- 2.1.1. Delegates to the Council's S151 Officer to sign off and submit the submission of the Scheme Final Business Case to the DfT seeking a contribution of £16.4M towards the total Scheme cost.
- 2.1.2. Delegates to the Council's S151 Officer to sign off and submit the submission of the Scheme Final Business Case to the LEP seeking a contribution of £5.6M towards the total Scheme cost.
- 2.1.3. Approves the selection and award of the contract to deliver the Scheme to Bidder C as the Preferred Bidder.
- 2.1.4. Notes the underwriting of the developer contributions and Asset sales to the Scheme of up to £9.7M in the event that the anticipated developer contributions and Asset sales are not realised and
- 2.1.5. Authorises the Executive Director of Place in consultation with the Deputy Leader to undertake all necessary preparatory works in advance of the final funding decision including the advance vesting of land within the Compulsory Purchase Order, at risk, in order to ensure the Council is positioned to deliver the Scheme if a favourable funding decision is received.

3. Reasons for Recommendations

- 3.1. The process of determining a Preferred Bidder for the Scheme has followed the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.
- 3.2. On 7th February 2017 Cabinet approved the use of the Restricted Procedure for the procurement of the contractor.
- 3.3. The top five scoring candidates were taken forward and invited to submit a final tender and all submitted final tenders for the Scheme.
- 3.4. In completing the evaluations, tenders were moderated and scored on their Quality and Price submissions in accordance with the published award criteria. To determine the most economically advantageous tender the Quality / Price ratio for the evaluations was 80% / 20%.
- 3.5. On concluding the final tender moderation the following scores were awarded:

Contractor A scored 82.6%

Contractor B scored 68.7%

Contractor C scored 97%

Contractor D scored 89.3%

Contractor E scored 90%

- 3.6. The most economically advantageous tender was submitted by Bidder C
- 3.7. The developers contribution (£7.7M) part of the funding package is a key risk. However, in order to submit the Final Business case for the Scheme, the Council must be able to demonstrate that it has the means to deliver the Scheme; hence the requirement to underwrite any funding shortfall.
- 3.8. The Contract is structured to require some initial works to be undertaken by the Preferred Bidder in advance of any Final Funding decision. These are limited in nature and are necessary to ensure that an efficient construction programme can be maintained. If these advance works were not undertaken it is estimated that seasonal ecological constraints could add up to 6 months to the construction programme. The Contract documentation has been structured in such a way to allow this, with the main obligations under the Contract not becoming effective until the Council has received an unconditional offer of funding from the DfT.
- 3.9. If there is a delay in the approval process from the DfT or there is prolongation of the High Court challenge, it may prove necessary to gain access to 3rd party land for time-critical ecology mitigation activities. In such a case it may be necessary to exercise the Council's CPO powers in advance of a final funding decision if access cannot be negotiated by agreement.

4. Other Options Considered

- 4.1. The Council could stop the scheme. The implications of this are that £c6.8M of sunk costs to date would have to be met by the Council's Revenue budget. These costs include the advance construction of a replacement Golf Course that had to be relocated. If the Scheme was cancelled delivery of the strategic aims of the Council's adopted Local Plan would also be put at risk.
- 4.2. The full range of procurement options were explored in the February 2017 Cabinet paper and a preferred procurement option was selected at that stage.
- 4.3. The rules on DfT funding bids are inflexible and inquiries have established that there is no opportunity for the DfT to increase its contribution to the Scheme.

5. Background

Summary

- 5.1. The proposed Scheme is a single carriageway road located to the west and south-west of Poynton and extends at its southern end from the A523 London Road, south-west of Poynton, to connect at its northern end into a junction with the newly constructed A555. The scheme commands an extremely high level of local support, being a planned project in various guises, for over 40 years.
- 5.2. In summary the objectives of the Scheme are:
 - 5.2.1. Objective 1 – To support the economic, physical and social regeneration of Poynton and the North of the Borough, in particular Macclesfield.
 - 5.2.2. Objective 2 – To relieve traffic congestion within Poynton by removing traffic, including Heavy Goods Vehicle (HGVs), onto the Relief Road, and to reduce traffic in less desirable roads on the wider network.
 - 5.2.3. Objective 3 – To deliver a range of complementary measures on the A523 corridor to Macclesfield that address road safety and congestion and which mitigate the wider environmental impact of traffic.
 - 5.2.4. Objective 4 – Boost business integration and productivity: improve the efficiency and reliability of the highway network, reduce the conflict between local and strategic traffic, and provide an improved route for freight and business travel.
 - 5.2.5. Objective 5 – To allow improvements to the highway network for walking, cycling and public transport.

Benefits of the Scheme

- 5.3. The Scheme will remove strategic traffic from the town centre of Poynton, resulting in reduced journey times and improving key economic links to Macclesfield in particular, the Airport and the strategic road network.
- 5.4. The Scheme represents high value for money including a Benefit Cost Ratio (BCR) of 3.4 in the Updated Economic Appraisal. This means that for every £1 spent on the scheme £3.4 of benefits are generated - giving a high degree of confidence that the Final Business Case will ultimately be approved by DfT.
- 5.5. The Scheme will make a significant contribution to achieving the economic growth aspirations of CEC and Stockport Council by increasing the capacity and flexibility of the highway network, including the key parallel A34 corridor, helping to enable the sustainable delivery of allocated employment and housing sites, including the North Cheshire Growth Village.

- 5.6. The Scheme will provide the only direct access to approximately 4 Ha of allocated employment land at Adlington Industrial Estate in addition to 22Ha of land safeguarded for future employment use in the Local Plan.
- 5.7. The Scheme provides the opportunity for the performance of the Town centre Shared Space Scheme to be enhanced and to assist in protecting future highway maintenance budgets, helping the Council achieve its priorities by creating an environment within the town which is conducive to attracting new businesses and improving the cycling and walking environment.

Procurement

- 5.8. Following approval of the Procurement Strategy officers have prepared the procurement documents, published them and evaluated bids for the Contract. The activities have followed the Council's timeline including the following stages:

Event	Dates
Selection Questionnaire (SQ)	
OJEU Contract Notice	23rd Oct 2018
Deadline for Evaluation of SQ responses	23rd Nov 2018
Final Tender Stage	
Issue Invitation to Submit Tender	11th Feb 2019
Deadline for return of Tenders	17th May 2019
Review, Evaluation and Moderation	21st May to 16th July 2019

The Tender Assessment Report is contained in Appendix A and a summary of the Tender prices received is contained in Appendix B

- 5.9. The Contract has been structured to allow the immediate delivery of time critical activities, with the main construction obligations only becoming operative upon the Council receiving an unconditional offer of funding from the DfT. The tendered cost and scope of this advance element of work is included in Appendix B.

High Court Challenge to the Compulsory Purchase Orders (CPO)

- 5.10. The Secretary of State confirmed the CPO on the 26th April 2019. A challenge was lodged by a landowner against the Secretary of States decision on the 1st July 2019.
- 5.11. The exact date of a High Court hearing cannot be accurately predicted as it is dependent on case load at the Court. However, the best advice the Council has is that a hearing before Christmas is highly likely.

5.12. The Scheme delivery strategy was shaped around the strong possibility that a High Court challenge would be lodged, and the Contractors pricing and start date reflects this.

5.13. The DfT have indicated that they will undertake all of the Business Case assessment in advance of a High Court decision. The final decision on the Business Case must however await the outcome of the challenge.

5.14. The Council and the Secretary of State are confident that there were no errors of law in the confirmation of the CPO and that there is a good prospect that the legal challenge will be unsuccessful.

Programme

5.15. The key programme dates are set out below:

Event	Dates
Hearing of High Court Challenge	Expected before December 2019
Resolution of High Court Challenge (expected)	Mid February 2020
Issue Notification of Award Letter & Unsuccessful Letters following Cabinet decision	19 September 2019
Submit Final Business Case to the DfT and LEP	14 October 2019
Mandatory standstill period ends	01 October 2019
Start Date of Contract (Initial works only)	28th October 2019
Assumed Date of DfT Final Business Case Award ²	Mid February 2020
Issue Notice to exercise CPO Powers ¹	Mid February 2020
Site Access Date	Mid May 2020
Opening of whole scheme	Late Spring 2022

¹ or before if determined necessary to protect the project programme.

² Subject to delay from any wider Government issues such as a General Election, etc

6. Implications of the Recommendations

6.1. Legal Implications

Procurement

6.1.1. The value of the proposed Contract with the Preferred Bidder is above the applicable EU threshold and the award of the contract is therefore subject to the Public Contracts Regulations 2015 (PCRs). The PCRs require the Council to treat all economic operators equally and without discrimination.

In addition, the Council must act in a transparent and proportionate manner.

- 6.1.2. The Council has followed the Restricted Procedure, which is a compliant procedure under the PCRs. In addition, the Council has fully complied with its own Contract Procedure rules during this project. The Restricted Procedure has been used as the Council was able to adequately specify its needs. It has allowed the Council to test the market and only invite those candidates meeting the Council's selection criteria to submit a final tender. No negotiation with the Preferred Bidder is permitted, just clarification of its final tender and finalisation of the Contract.
- 6.1.3. From the inception of this project, the Council has engaged external highway procurement industry experts to act as specialist advisors and has sought advice from the Council's Procurement and Legal services throughout.
- 6.1.4. The Contract is a NEC3 Option A Priced Contract with Activity Schedule with Contractor Design (Design and Build contract). Aside from some limited early works (intended to accelerate the delivery programme), the main works under the Contract are conditional upon the approval of the DfT Final Funding award and will be triggered when the Council receives an unconditional offer of funding from the DfT that full funding is in place. As the early works will be undertaken in advance of the DfT Final Funding award they will be at the Council's risk.

Funding

- 6.1.5. The main legal implications insofar as the funding strategy is concerned are set out in the body of the Financial Implications section and relate to the accuracy of the predicted developer contribution over a longer period of time. In essence, planning legislation and policy is a moveable feast and will impact on assumptions made in the level of developer contributions that can be ultimately achieved.
- 6.1.6. Precisely what those impacts will be can only be ascertained once the timing and detail of any such change is known and properly understood, relative to the receipt, determination and/or implementation of development anticipated on any related development site.
- 6.1.7. Notwithstanding those variables, and whilst it is anticipated that a developer contribution in the region of £7.7M will ultimately be recouped, if there is to be sufficient certainty as to the Council's ability to fund the scheme, in order that the Final Business Case can be submitted, the

Council needs to be prepared to commit to covering any remaining funding gap.

6.2. Finance Implications

Contractor Assessment

- 6.2.1. The Accounts of all of the tenderers were received as part of the Assessment process. A financial health check on the Preferred Bidder has been undertaken and no concerns have been identified.

Scheme Costs

- 6.2.2. The Estimated outturn cost of the scheme is £50.7M. This figure includes all sunk costs to date in developing the scheme, the estimated costs to purchase the land, an allowance for compensation costs for properties depreciated by the Scheme (known as Part 1 Claims), the tendered cost of the scheme, future fees, utility diversions, the cost of relocating a Golf Course and finally an allowance for future risks. A breakdown of the scheme cost is contained in Appendix C.
- 6.2.3. A full estimate of the likely cost of compensation claims for existing properties has been undertaken. Given the fact that new developments are emerging in the locality of the new road at the Garden Village site an assessment of likely claims for houses not yet built has also been included. This is based on assumptions on the rate of build of these new developments and the type / value of houses built.
- 6.2.4. The Council has sourced advice on the likely scale of property compensation from two independent companies. The advice offers a large range in the recommended allowance for property compensation. However, as a conservative position, 90% of the the highest figure has been included in the Scheme estimate.
- 6.2.5. The financial analysis of the tenderers submissions has been undertaken in line with the Tender documentation and independently validated.
- 6.2.6. The cost of the initial works to be done at the Council's risk (Section 1) by the Preferred Bidder before Final Funding Approval is set out in Appendix B

Scheme Funding

- 6.2.7. The principle of the funding strategy for the Scheme was most recently confirmed at the November 2017 Cabinet whereby in addition to the

Council's own funding contribution it was agreed to underwrite the estimated level of developer contributions to the scheme (£7.7M)

- 6.2.8. The Council's Capital Programme has a budget of £43.9M. Approved by full Council on 14th December 2017. Prior years spend of c£6.8M results in a total budget provision available for the Scheme of £50.7M
- 6.2.9. The latest position as regards developer funding from developments in Poynton is set out below:

Ref Number	Dwellings	Agreed S106 payment (£)
17/4256M	150	825,000
17/3896M	120	660,000

A planning application for the final site for c150 houses is currently undetermined. However, it is anticipated that a consistent approach will be taken by Highway Development colleagues:

Ref Number	Dwellings	Anticipated S106 payment (£)
17/4256M	150	825,000

- 6.2.10. The remaining developer contribution (£5.39M) is expected to come from the North Cheshire Garden Village (NCGV) allocation. This site is for up to 1500 new homes and located off the A34 in Handforth. The Poynton Relief Road provides a strategic re-distribution of traffic away from the A34 from which the entrance to the NCGV is provided; thereby assisting with the delivery and access of this key strategic site. This contribution will need to be negotiated with the applicant for the NCGV and meet the test of the CIL regulations.
- 6.2.11. Developer funding is only received by the Council upon meeting certain 'triggers', normally linked to progress in the number of dwellings constructed on a particular site. It is difficult therefore to forecast with any accuracy the timing of payments; though the trajectory set out in the Local Plan assumed all of the developments are fully built out by the end of the Plan period – 2030. For the purposes of making a conservative assessment of budget income only a date of 2038 has been taken.
- 6.2.12. However, It is considered that there is confidence that the figure of £7.7M should be used as a figure to underwrite.

- 6.2.13. The Council has also acquired several property assets over the years that once the Scheme is built can be disposed of. This includes development land at Adlington Industrial Estate. The total value of this asset base has been assessed as c£2.0M
- 6.2.14. This would leave the Council with a projected net funding position of £c19M by 2038.
- 6.2.15. An indicative spend and income profile has been provided in Appendix D. This shows that a significant proportion of the costs of the scheme (linked to compensation) falls within the period 2023 – 2030. It is anticipated that as development funding is received it will help offset these ‘tail’ costs. It is also likely that the Council will continue to receive income for the Scheme after all capital expenditure has been complete. A summary of the table is set out below, rounded to one significant figure:

	Prior Years £M	2019/20 £M	2020/21 £M	2021/22 £M	2022/23 £M	Future years to 2038 £M	Total £m
CEC	6.8	1.4		7.1	3.8	(0.1)	19.0
DfT/LEP			13.3	8.7			22.0
Developers (CEC Underwritten)						7.7	7.7
Asset Sales						2.0	2.0
Total	6.8	1.4	13.3	15.8	3.8	9.6	50.7

The MTFS includes £43.9 budget for the scheme from 19/20

- 6.2.16. Notwithstanding the above, there can be no certainty that the receipt of developer contributions or Asset Sales will fall in a timely fashion relative to expenditure. Prior to realising this income it will be necessary for the Council, as a worst case position, to underwrite up to £28.7m towards the cost of the road. It bears repeating that on account of the variables set out above, the Council may not recover against the sums it underwrites the full amount of the developers’ contributions that the modelling undertaken to date anticipates will arise.

- 6.2.17. The Council's S151 officer will be required to confirm the financial position and underwriting of the scheme on this basis for the Final Business Case submission.

Highway Maintenance Budget Implications

- 6.2.18. The scheme will relieve pressure on the highway maintenance budget to some extent as pressure on the Poynton Shared Space Scheme is relieved.

6.3. Policy Implications

- 6.3.1. The Poynton Relief Road is an integral part of the Council's key place shaping document – the Local Plan.

6.4. Equality Implications

- 6.4.1. None.

6.5. Human Resources Implications

- 6.5.1. None.

6.6. Risk Management Implications

- 6.6.1. A risk and opportunities register has been completed as part of the procurement exercise and a suitable risk allowance included in the budget profiles.
- 6.6.2. The Council's contribution and underwriting of developer funding are pushed as far back as possible in the spend profile
- 6.6.3. Part 1 Compensation claims form a large part of the cost of the scheme and the Council has taken specialist advice on ensuring any claims are robustly defended, with the aim of minimising these costs. As a robust position 90% of the highest estimate of possible claims has been included in the scheme budget.
- 6.6.4. There remains a risk around the delivery programme as the Council requires a Government decision on the Business Case to be made. The timing of this decision is out of the Council's control. A significant delay to the approval of the Business Case would impact on the tendered price for the scheme if the proposed start date could not be achieved.

6.7. Rural Communities Implications

- 6.7.1. The scheme is expected to reduce traffic on minor roads such as Bonis Hall Lane, improving connectivity for Rural communities.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.9.1. The scheme delivers a significant improvement in the local cycling and walking environment – both in Poynton Town Centre, allowing the Shared Space scheme to operate more effectively and in new facilities provided by the new road. These include a new cycleway along its whole length and new off-road facilities.

6.9.2. The Non-Motorised User (NMU) proposals have been developed through extensive consultation with the Council's Countryside Access Development Officer, the Cheshire East Local Access Forum (LAF), Stockport's Public Rights of Way Officer and the Stockport LAF. A dedicated Group was also established to ensure an optimal design solution for NMU's by discussing and gathering feedback on pedestrian, cycle and equestrian facilities, provision for mobility impaired individuals and public rights of way.

6.10. Climate Change Implications

6.10.1. The Environmental Statement submitted alongside the planning application states "increase of emissions from the scheme is well below 1% for both opening year and design year. Therefore the impact of the scheme on regional emissions is anticipated to be negligible."

6.10.2. The new road has been designed to store flood water arising from a 1:100 year rainfall event with a 20% allowance for Climate change.

7. Ward Members Affected

7.1. Poynton East and Pott Shrigley ward, Poynton West and Adlington ward, Prestbury ward.

7.2. Councillors Jos Saunders, Nicky Wylie, Michael Beanland, Mike Sewart.

8. Consultation & Engagement

8.1. The Scheme has been subject to extensive local consultation at the Planning Stage and demonstrated outstanding levels of local support.

9. Access to Information

9.1. The Appendices to this report contain exempt information by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of any particular person, including the authority

holding that information). The Appendices will be considered in Part 2 of the agenda.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Paul Griffiths

Job Title: Infrastructure Delivery Manager

Email: paul.griffiths@cheshireeast.gov.uk