

OPEN



Highways and Transport Committee

23 January 2025

Middlewich Eastern Bypass – Approval to enter into Construction Contract

Report of: Tom Moody, Director of Transport and Infrastructure

Report Reference No: - HTC/41/24/-25

Ward(s) Affected: Middlewich and Brereton Wards

Purpose of Report

- 1 To authorise officers to enter into a contract with Balfour Beatty to build the Middlewich Eastern Bypass (MEB) but subject to receiving a positive decision by the Department of Transport (DfT) to award the Council grant funding of £46.78 million towards the cost of the scheme. (In line with previous decisions)
- 2 To highlight to members the possible impacts of any delay to the DfT grant decision on the potential start date and estimated costs of the scheme.
- 3 To authorise officers to make decisions on undertaking some contract preparation work prior to receiving the DfT decision which would enable some site works to start as soon as possible after the Council receives notification of a positive DfT decision.
- 4 To confirm the funding and budgetary arrangements for the scheme.

Executive Summary

- 5 The Middlewich Eastern Bypass scheme will improve the highway network in Middlewich by relieving congestion and road safety concerns in Middlewich town centre, improving journey times on the wider highway network and will enable the full development of Strategic Location LPS 44 (Midpoint 18) in the adopted Local Plan Strategy. The Scheme will support economic growth, employment and housing delivery in the town and the surrounding area.
- 6 The estimated total cost of the scheme is £97.94 million. The council has spent approximately £27 million to date on activities such as

scheme preparation, ground investigation, environmental works and land assembly to date.

- 7 The current programme is for the main works to start in late Summer 2025, with an estimated 26-month construction period, but this programme depends on a timely decision by DfT on their grant funding.
- 8 This report recommends that the Council enters into the main construction contract with Balfour Beatty to construct the scheme after a DfT decision is made to award the grant.
- 9 Any delay to the DfT decision will mean the main construction commencement would be pushed further into late Autumn 2025 (or even beyond) which would cause increased costs due to less favourable earthworks conditions than currently allowed for, which may mean it would be advantageous to start in Spring 2026 rather than work through the winter months.
- 10 It may therefore be necessary to do some contract preparation work is done prior to the DfT grant decision to ensure that when a positive decision is received, a site start can be made as quickly as possible. This would mean that some main construction work could be brought forward from the Stage 2 (main construction) contract the current Stage 1 (Pre-construction) contract so that construction work could start as soon after the DfT decision as possible. To minimise risk, the work would not begin on site until the DfT decision is known.

RECOMMENDATIONS

The Highways and Transport Committee is recommended to:

1. Note the previous financial and delivery decisions and delegations in previous reports.
2. Subject to DfT grant approval and that the construction target cost and other scheme cost estimates are in line with the budget and funding arrangements in the 2024/2025 Medium Term Financial Strategy (MTFS) and subsequent approved virements, delegate authority to the Director of Transport and Infrastructure to enter into Stage 2 of the construction contract under the SCAPE framework.
3. Delegate authority to the Director of Transport and Infrastructure, in consultation with the S151 Officer, to make all necessary arrangements prior to the DfT decision (for example including, but not limited to, expenditure on preparing the target cost and value engineering design work) to enable the scheme to start on site in Summer 2025. (The Contract Preparation Works)

4. Delegate authority to the Director of Transport and Infrastructure to bring forward appropriate elements of construction (The Early Site Works) into Stage 1 of the existing Scape Contract (This work to be contractually awarded only after a positive decision on the DfT grant award)
5. Note the possible impacts of a delay to a DfT Decision on the start date and estimated cost of the scheme.
6. If any delays or any other factors cause estimated scheme costs to rise above the current approved capital budget, authorise the Director of Transport and Infrastructure to:
 - a. request the Finance Sub Committee and Council make any necessary adjustments to the MTFS and
 - b. make any minor scope changes to the scheme which may arise as a result of a value engineering exercise to ensure the scheme is affordable.
7. Authorise the Director of Governance, Compliance and Monitoring Officer to take all the remaining steps necessary to obtain all rights required for any land necessary for the construction of the scheme.

Background

- 11 The MEB is a critical project for the Council, supporting the delivery of 1,950 new homes and the creation of an estimated 6,500 jobs.
- 12 A list of previous reports on the MEB considered by Cabinet and the Highways and Transport committee is attached as Appendix 1. The links are to the agendas and decisions of those meetings.
- 13 The most recent decisions of this committee were made in September 2023 when it authorised the submission of the Full Business Case (FBC) to the DfT, in the expectation of a decision by them on the grant funding being made in early 2024. No decision was made at that time, but a series of further clarification questions were received from DfT in April which have now been responded to and a revised FBC was submitted in September 2024.
- 14 Of most relevance to the considerations in this report regarding the construction contract were the resolutions at the September 2023 meeting to:
 - *Note the authorisation already given by Cabinet on 15 January 2019 to delegate to the Executive Director – Place in consultation with the Finance and Communications Portfolio Holder, exercise powers to undertake all the necessary and*

prudent preparatory site clearance and general construction works in advance of Stage 2 Construction phase before funding approval from DfT.

- *Note the authorisation given by Cabinet on 15 January 2019 to delegate to the Executive Director – Place in consultation with the Finance and Communications Portfolio enter into a two stage Delivery Agreement with the Contractor for the delivery of the MEB via the Scape Framework.*

15 Table 1 below shows the current scheme programme which assumes that a decision is received on the DfT grant fund in February 2025:

Table 1: Programme Key Dates (estimated based on no advance Target Cost preparation work)

Activity	Programme Date
Submit FBC to the DfT	6 September 2024
Approval of FBC / Receive DfT Funding	28 February 2025
Receive Contractor Offer for Stage 2 works (Target Cost)	10 June 2025
Instruction to Proceed (Notice to Proceed) to Stage 2 construction	23 July 2025
Exercise Land and Property agreements via agreement (After Target Cost is known)	11 June 2025
Implement the Orders (After Target Cost is known)	11 June 2025
Site Clearance and Advance works start	23 July 2025
Access Date – All of the site for main works	23 July 2025
Scheme in Use	21 September 2027
Planned Completion	12 October 2027
Completion Date	15 February 2028

Scheme Costs

- 16 The total scheme cost estimate figure includes all sunk costs to date in developing the scheme, the estimated costs to purchase the land, an allowance for compensation costs (known as Part 1 Claims), the contract costs for construction, future professional fees, utility diversions and allowances for future risks. These costs must assume that funding is made available at a certain time; and this is assumed to be by the end of February 2025. A breakdown of the estimated scheme cost is contained in Table 2 below

Table 2: Estimated Scheme Costs

Project Stage	Estimated Cost £m	Expended Cost to date £m	Remaining Cost £m
CONSTRUCTION			
Stage 1 Preconstruction	6.80	6.80	
Stage 2 Construction	48.85		48.85
Combined Stage 1 and Stage 2	55.65		
DEVELOPMENT			
Development Cost [Design, fees, compensation, inflation]	13.89	13.89	
Project Management, Support and Site Supervision	3.25		3.25
Utilities	2.83	1.55	1.28
Land and Property and Compensation	17.90	4.82	13.08
Project Risk	4.42		4.42
Total Development Cost	42.29	27.06	70.88
TOTAL PROJECT COST	97.94		

Note – this total is greater than that shown in the 2024-28 MTFS because of the delay to the original DfT decision which was expected in February 2024, which resulted in inflationary pressures on the original scheme cost estimate. The additional costs have been covered by savings made on the Congleton Relief Road project with a virement to this scheme.

- 17 Scheme costs incurred to date amount to approximately £27.0 million – of which approximately £4.82 million is for the land acquired to date. The remaining is for development and design work, ground investigation and early enabling works including service diversions and environmental and ecology work which has already been carried out.
- 18 The above costs and programme are based on a decision by or before 28 February 2025.

Scheme Funding

- 19 Table 3: Funding Arrangements

FUNDING	FUNDING CONTRIBUTION £m
Department for Transport (DfT) Grants:	
Outline Business Case (OBC) Stage – DfT funding received	1.26
Full Business Case (FBC) Stage – subject to final approval	46.80
Local Contributions:	
Cheshire East Council (CEC) – Local Contribution	24.81
Developers S106 Contribution*	22.87
Additional identified Local Contribution from Savings in Highways and Transport Capital Programme	2.20
Funding Available	97.94

*S106's relate to signed agreements of £16.12m; and with the balance estimated S106 receipts from future development opened up by the bypass.

- 20 The Council has spent approximately £27.0m to date, and will need to fund another £25m to build the scheme, with an estimated £23m of this total returned to the council over an estimated ten years (linked to the pace and development of the related developments that will pay the S106 contributions)
- 21 The previous Government's additional Network North funding for the scheme, referenced in previous reports, remains uncertain so it is assumed for the purposes of this report that it will be unavailable. The Council will however lobby to ensure that if this funding does become available, then the scheme will benefit from it in line with the government announcements made at the time of cancellation of the northern sections of HS2.

Department for Transport Grant

- 22 The scheme secured entry into the DfT Large Local Majors (LLM) Programme by demonstrating a compelling case for funding in the Outline Business Case.
- 23 Although elements of the business case have been impacted by high levels of inflation, the scheme retains a positive Benefit Cost Ratio; and the Council has highlighted the major strategic benefits of the Scheme, such as opening up access to jobs.
- 24 The Governments' new National Objectives linked to the scheme in the following ways:

National Objective	How MEB Scheme Supports
Improving Performance on the Railways and Driving Forward Rail Reform	<ul style="list-style-type: none"> - Reduces congestion on local roads, improving access to rail stations. - Supports Midpoint 18 strategic employment site, potentially increasing rail service demand.
Improving Bus Services and Growing Usage Across the Country	<ul style="list-style-type: none"> - Reduces congestion, improving bus service delivery - Enhances bus network reliability - Addresses issues in the Bus Service Improvement Plan
Transforming Infrastructure to Work for the Whole Country, Promoting Social	<ul style="list-style-type: none"> - Supports economic growth in Cheshire - Unlocks employment growth at Midpoint 18

Mobility and Tackling Regional inequality	<ul style="list-style-type: none"> - Facilitates creation of 6,500 jobs and 1950 new homes - Contributes to closing the productivity gap between the North and the rest of England
Delivering Greener Transport	<ul style="list-style-type: none"> - Provides 4km of new cycle and pedestrian facilities - Reduces congestion and improves journey time reliability - Creates conditions for more efficient public transport, encouraging a shift from private car use
Better Integrating Transport Networks	<ul style="list-style-type: none"> - Connects A54 Holmes Chapel Road to A533 Booth Lane, enhancing the strategic road network - Improves conditions for private vehicles and public transport - Incorporates active travel infrastructure alongside the new road

Consultation and Engagement

25 The scheme has been subject to extensive local consultation at the planning stage and demonstrated high levels of local support, including from the recently elected MP for the Mid-Cheshire constituency. The Council has lobbied hard with senior politicians to communicate the importance of the timing of a decision on final DfT funding.

Reasons for Recommendations

26 Although there have been previous resolutions regarding entering into the main construction contract with Balfour Beatty using the SCAPE public sector framework and to commit to arranging all pre-main construction work prior to the DfT grant decision, given the changed risk profile following no DfT decision being received last year, alongside the Council's own financial situation, it is necessary re-visit and reconfirm those resolutions now.

27 Before the main construction contract can be awarded, the scheme FBC must be approved by the DfT (thus releasing the £46.78 million DfT grant) and a target cost for the construction contract must be

agreed and the Council must be certain all of the land needed can be acquired.

- 28 Recommendation 2 confirms that subject to the grant award, and continued affordability, the committee will authorise the Director of Transport and Infrastructure to enter into a contract for the construction of the scheme using the Scape framework.
- 29 Recommendations 3 and 4 are to authorise the Director of Transport and Infrastructure to make delegated decisions to do (or not do) Contract Preparation Works and Early Site Works if either or both of these prove to be of financial benefit to the Council at a time when all the relevant information is accurately known.
- 30 These delegations are sought now to enable decisions to be made quickly outside the committee cycle as information becomes available and when the DfT announce their decision. Working to the committee meeting cycle would introduce additional delay and costs to the process.
- 31 The following paragraphs highlight the considerations that will need to be taken into account in the decisions on the Contract Preparation Works and Early Site Works:
- 32 The current programme assumes a decision by the DfT on the grant award will be received in February 2025. This would allow a site start in Autumn 2025.
- 33 Clearly, if there is any significant delay to the DfT decision, this will put the programme at risk and will increase scheme costs as a result of inflationary pressures and the amount of initial earthworks that would need to be done in the winter months. The Council would then need to further review the MTFS provision for the scheme.
- 34 Even if the DfT decision is received on time, there may be benefits in undertaking certain works at risk now to ensure the challenging programme can be delivered. One example is having a contract target cost developed and 'ready to go' from February, which could produce overall programme savings. This would only be done if the forecast savings were significant enough to balance any further spending at risk.
- 35 As a result, discussions have been held with the contractor for the scheme, Balfour Beatty, to assess what opportunities could be available to reduce scheme costs from the baseline programme. Work is ongoing, but it has been identified that there could be savings achieved by advancing the target cost preparation and some other value engineering design work.

- 36 The costs for these Contract Preparation Works are estimated to be in the region of approximately £0.5m; and are already included in the overall scheme cost estimate. These works to prepare a target cost are significant and involve engaging the contractor's sub-contractors to arrive at firm contractual costing for all elements of the scheme. Completing the target cost work early would enable the scheme risk profile to be reduced as the scheme would be able to commence in the summer months. The issue will be, therefore, does the Council wish to risk spending this sum before the DfT grant confirmation to take advantage of the programme and cost savings.
- 37 Although no site works would begin prior to a decision by DfT, it may be beneficial to move some site preparatory works (the Early Site Works) from the main Stage 2 construction contract, into Stage 1 (pre-construction) which the Council has already entered. The scenario assessment has shown that such an approach could result in significant scheme savings. It would also allow a very quick mobilisation of resources on site soon after the council is notified of a positive DfT grant decision. Example of these measures would be such things as establishment of site offices and construction of access routes.
- 38 Recommendation 6 is necessary to allow flexibility to request adjustments to budgets and / or to make minor changes to design (eg to improve "buildability") where necessary so that the scheme can progress without reverting to Committee.
- 39 The delegated decision makers for all the recommended delegated decisions will consider the relative costs, benefits and risks to the Council of each decision at the time on the basis of updated and accurate information that will be available. Decisions would be made and recorded using the formal Officer Decision Record process.

Options Considered

Option	Impact	Risk
<p>Preferred Option :</p> <p>Authorise the delegation to the Director of Transport and Infrastructure (DoTI) to award the SCAPE construction contract under subject to it being affordable.</p> <p>Delegate to the DoTI a decision on doing Contract Preparation Works prior to the DfT Decision at risk.</p> <p>Delegate to the DoTI a decision on bringing some Early Site Works into Stage 1 of the Scape contract</p>	<p>These authorisations will allow earliest award of contract and could accelerate the programme, providing financial benefits compared to the costs if this option was not implemented.</p> <p>Contract Preparation Works will cost approximately £0.5m (already included in overall scheme costs)</p> <p>Early Site Works are also already included in overall scheme costs.</p>	<p>The £0.5m Contract Preparation Works cost will be at risk of not getting a positive DfT decision and in that event would add to the sunk costs already incurred on the scheme.</p>
<p>Other Options Considered:</p>		
<p>Await the DfT decision on the grant award before the Committee decides on construction contract award. (Stage 2)</p>	<p>Full information in front of members, but would cause delay and therefore additional programme costs, which are avoided by delegating authority within the strict criteria outlined in the recommendations.</p>	<p>Increased scheme costs which would affect affordability and could lead to cancellation.</p>
<p>Await a complete set of financial information on the Contract Preparation Works and Early Site Works before the Committee making a formal decision on each element.</p>	<p>Full information would be in front of members, but would cause significant delay and therefore additional programme costs, which are avoided by delegating the decision.</p>	<p>Increased scheme costs which would affect affordability and could lead to cancellation.</p>
<p>Cancel the scheme</p>	<p>The MEB is a Local Plan led scheme which will deliver the main strategic employment allocation and housing growth as well as transport benefits. 1,950 new dwellings and 6,500 additional jobs are</p>	<p>Cancellation of the scheme at this stage could cause reputational damage with funders and would lead to a significant financial</p>

	<p>directly or indirectly linked to the delivery of the scheme These benefits will be lost. The expenditure to date on the scheme of approximately £27 million would need to be met by the Council's Revenue budget.</p> <p>.</p>	<p>impact to the Council.</p> <p>It could also affect the credibility of any future Council funding bids.</p> <p>Additional costs are expected via potential Blight Claims from landowners.</p>
<p>Seek an alternative Procurement route</p>	<p>Major impact on scheme timeline, could necessitate a further re-submission of the Final Business Case as the Commercial element would be different</p>	<p>Minimum further 12-month delay to the Scheme. No certainty on Scheme Cost. Compulsory Purchase Orders and other and agreements could expire, adding further delay and cost.</p>

Implications and Comments

Monitoring Officer/Legal

- 40 Any decision to undertake additional early works for the scheme prior to the DfT grant; ("Contract Preparation Works"); runs the risk of their being substantive abortive costs if the DfT funding decision is not favourable. If the Council undertakes the Contract Preparation Works and the scheme does not proceed for whatever reason, it may be necessary to remove the works and for the land to be restored to its original condition, and the Council would in that scenario have to fully fund the restorative works. This needs to be balanced against the risk of a favourable DfT funding decision so that the scheme can proceed; but you find out at that stage that the delay in carrying out the works makes them much more expensive. If the decision is taken to accelerate the Early Site Works cognisant of the risks in so doing; then the Stage 1 (pre-construction) contract will need to be modified, but Legal does not anticipate any difficulty in resolving this under the ambit of the Scape Framework.

Section 151 Officer/Finance

- 41 The Middlewich Eastern Bypass is included within the Capital Programme published as part of the 2024-2028 Medium Term Financial Strategy and its current approved budget is £96.6m plus a further £1.34m of budget relating to MEB that sits within assets, in total £97.94m.
- 42 The outlined approach means that further costs in the region of £0.5m may be incurred in addition to the £27m that has already been spent before the DfT decision has been received. The remaining budget would not be incurred until after a favourable decision has been received but the recommendations, if approved, would allow the Council to act promptly upon receipt of a positive outcome to avoid cost escalation due to timing delays. The approach does not necessitate the addition of further budget to the project and the Council is clear that in the event that the DfT approval is not forthcoming (or significantly delayed) the current financial position would require a complete review of the project before any further agreements are undertaken to decide if the project should still proceed or not. To date £27m has already been spent by the council on this project and without the DfT approval serious consideration would need to be given to the financial implications of stopping the programme and this would need to be weighed against the cost of incurring the remaining approved budget from its own resources rather than grant funding
- 43 If the project were to cease following no approval from the DfT then costs incurred to date could not be capitalised and would need to be written back to revenue. This would put additional pressure upon the current financial position and unless a Capitalisation Directive could be obtained from the Secretary of State would have serious implications. Ceasing the scheme would also leave the council without the benefit of the asset and its potential to unlock the surrounding area for development together with the loss of potential developer contribution in future years which are part of the current funding position for the scheme in order to pay back the borrowing undertaken to date.
- 44 Should the Director of Transport and Infrastructure and the S151 officer decide to use the delegation under Recommendation 3 any cost incurred, estimated at approximately £0.5m in paragraph 35, would add to the £27m spent to date that would potentially be abortive costs.
- 45 The alternative would be to continue with the project but to fund it entirely from our own resources. This would have significant long term implications for the Capital Financing Budget due to the cost of the borrowing that would be required as well as the Minimum Revenue Provision that would need to be made annually to repay that borrowing. However, it would allow for the future development of the

area surround the Bypass and the developer contributions that could help offset some of the costs of the borrowing incurred.

Policy

- 46 The policy implications of the scheme are unchanged from those reported in previous cabinet and committee reports listed at Appendix 1, most recently and comprehensively in the report to Highways and Transport Committee on 21 September 2023. ([Link to Report](#))

Equality, Diversity and Inclusion

- 47 The Equality, Diversity and Inclusion implications of the scheme are unchanged from those reported in previous cabinet and committee reports listed at Appendix 1, most recently and comprehensively in the report to Highways and Transport Committee on 21 September 2023. ([Link to Report](#))

Human Resources

- 48 It shall be necessary to ensure that sufficient resource is allocated in Estates, Highways, Legal and Planning Services to support delivery of the scheme. If additional temporary resources are required these will be met from the project budget.

Risk Management

- 49 The Council will be required to accept all responsibility for cost increases beyond the cost envelope provided within the FBC when it is approved for funding by the DfT.
- 50 Until the point at which the DfT make their final investment decision based on the FBC, any Council funding of scheme development is at risk.
- 51 The Procurement route is fixed by previous decisions taken by the Council, and given the link between pace of delivery, inflation and the validity of Statutory Orders, etc it is not considered possible (or beneficial) to revise the delivery approach of this scheme.
- 52 Despite the Council's best efforts to highlight the issues of programme and finance related to a timely DfT decision, this is largely out of the Council's control and any delay will be inflationary.
- 53 A statutory blight claim notification has been received from one of the major landowners impacted by the Scheme. Legal advice is currently being sought in respect of the validity and likelihood of success of the claim, but if successful, the Council could be forced to purchase land regardless of whether the scheme progresses or not. If the scheme progresses, there is no further impact on costs associated with the blight claim.

- 54 Other risk management issues are unchanged from previous Cabinet / Committee reports. A risk register has been produced in the preceding stages of the project development and this will be reviewed and updated through the current stage of works. Capital cost risks are informed by a comprehensive qualitative risk assessment and currently there is sufficient risk allowance within the Scheme budget to cover any unforeseen issues during construction. However, any exceptional risks beyond the provision made would necessitate further Council funding (Should this be the case this will be reported and decisions made through further Committee reports)

Rural Communities

- 55 The rural communities implications of the scheme are unchanged from those reported in previous cabinet and committee reports listed at Appendix 1, most recently and comprehensively in the report to Highways and Transport Committee on 21 September 2023. ([Link to Report](#))

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 56 The Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND) implications of the scheme are unchanged from those reported in previous cabinet and committee reports listed at Appendix 1, most recently and comprehensively in the report to Highways and Transport Committee on 21 September 2023. ([Link to Report](#))

Public Health

- 57 The public health implications of the scheme are unchanged from those reported in previous cabinet and committee reports listed at Appendix 1, most recently and comprehensively in the report to Highways and Transport Committee on 21 September 2023. ([Link to Report](#))

Climate Change

- 58 The climate change implications of the scheme are unchanged from those reported in previous cabinet and committee reports listed at Appendix 1, most recently and comprehensively in the report to Highways and Transport Committee on 21 September 2023. ([Link to Report](#))

Contact Officer:	<p>Chris Hindle, Head of Infrastructure (Job Share) chris.hindle@cheshireeast.gov.uk</p> <p>Paul Griffiths, Head of Infrastructure (Job Share) paul.griffiths@cheshireeast.gov.uk</p> <p>Neil Grundy, Infrastructure Delivery Manager neil.grundy@cheshireeast.gov.uk</p>
Appendices:	<p>Appendix 1 – List of all previous scheme reports, including links. (below)</p> <p>Appendix 2 – Scheme Plan</p>
Background Papers:	<p>See Appendix 1</p>