

EAST RENFREWSHIRE COUNCIL13 September 2023Report by Director of EnvironmentAURS ROAD PROJECT FUNDING**PURPOSE OF REPORT**

1. The purpose of this report is to update Council on various funding matters relating to the City Deal funded Aurs Road realignment project.

RECOMMENDATIONS

2. The Council is asked to:
 - a) note the progress and strategic importance of the Aurs Road City Deal project;
 - b) note the changes to Sustrans financial grant funding awards for 2023/24 and the application for £3 million of grant funding in 2024/25;
 - c) approve the allocation of £3 million in Council funds to the Aurs Road project in 2024/25 to cover the shortfall should the grant application for completion of works in 2024/25 not be approved;
 - d) approve the use of a contingency allowance of approximately 10% of the contract sum funded from the overall project budget; and
 - e) note the submission of the Full Business Case for the Aurs Road Realignment projects to the Glasgow City Region Programme Management Office.

BACKGROUND AND REPORT

3. The £1.13 billion City Deal infrastructure fund across the Glasgow City region is to enable a programme of works that will add value to the regional economy over a number of years.
4. East Renfrewshire is benefiting from a £44 million investment package comprising £38 million investment from the Scottish and UK Governments and co-funded by the Council with a £6 million capital contribution.
5. In terms of the City Deal investment, a programme of ambitious projects was approved (entitled the M77 Strategic Corridor Programme) by the Council in 2015 to stimulate economic growth, improve transport links, increase leisure opportunities, support business development, unlock residential land and generate economic benefits measured as additional Gross Value Added (GVA) and employment. The programme

of projects is listed below and a detailed update was provided to [Cabinet on 23 March 2023](#):

- Levern Works –Remediation of the former Nestle site at Glasgow Road and the creation of light industrial units at Crossmill, both in Barrhead.complete
- The Greenlaw Works - complete
- Balgraystone Rd improvements -complete
- New Rail Station at Barrhead South – in progress
- Aurs Road Improvements – in progress (subject of paper)
- Country Park Visitor Facilities – in development

Background and Scope of Aurs Road Improvements

6. This project will improve local connections between Newton Mearns and Barrhead and enable visitor facilities at the Country Park. It will upgrade and realign 2km of Aurs Road from the junction of Springfield Road in Barrhead to Stewarton Road in Newton Mearns and includes the installation of a promenade and active travel route. An artist's impression of the project is attached (Appendix 1). The Council is working in partnership with Scottish Water to deliver this project comprising:
 - Road improvements
 - two sections of new road to provide improved alignment
 - a new bridge to replace an existing weak road bridge
 - a narrowing of Aurs Road to one lane and associated traffic signal control as it passes beneath the railway bridge
 - the installation of new roundabout
 - the resurfacing of the full stretch of road
 - The release of land to enable the construction of Country Park Visitor Facilities and associated off road parking provision. Site layouts and park provision will be determined separately as part of the Visitor Facilities Business Case
 - Pedestrian and Active Travel provision
 - a new Promenade on dam face of Balgray Reservoir providing pedestrian and cycle connectivity
 - a new 2 km active travel link between Barrhead and Newton Mearns
 - a new foot bridge over Brock Burn to serve the Active Travel route
 - the partial alteration of the existing walkway bridge to Scottish Water's drawdown tower
 - Works to Balgray Reservoir structure
 - the installation of replacement culvert between Balgray Reservoir and Brock Burn by undertaking deep cut through the existing dam structure (on behalf of Scottish Water);
 - the removal and infill of the existing Brock Burn overflow weir which enables footpath improvements.
7. Aurs Road is a large, complex project involving ten stakeholders / partners, working across a wide range of government and crown agencies and collaborating with reservoir and roads engineers, legal and property experts as well as roads and planning. As a result, the project has experienced various delays - mainly related to third parties and therefore out with the Council's control. These delays have now successfully been overcome and the project is moving towards delivery.
8. The tender for a contractor to carry out the construction works was issued in May 2023 and returned in July 2023. This multifaceted tender involved a package of works funded

by City Deal, Sustrans and ERC Developer contributions, as well as essential reservoir works to be undertaken on behalf of Scottish Water at the same time to minimise disruption and road closures.

9. Evaluation of the tender is now complete and a preferred contractor has been identified. However, East Renfrewshire Council procurement rules mean that a project tender cannot be accepted without guaranteed funds.
10. It is anticipated that the Glasgow City Region Chief Executives' Group will approve the Full Business Case (FBC) in October 2023 under delegated authority. Following successful approval, the City Region will thereafter release the final tranche of funding for the City Deal elements of the scheme. Funding for the Scottish Water elements of the works package and developer contributions are also in place.
11. The Council was successful in securing a £5.7m grant from Sustrans via their Transport Scotland funded Places for Everyone programme to support the active travel aspirations of this project. Officers worked closely with Sustrans for a number of years on plans and designs to create an exemplary active travel route that delivers a safe segregated route between Barrhead and Newton Mearns. This includes a pedestrian and cycle path, promenade, bridge and associated landscaping.
12. Transport Scotland, the governing body for Sustrans, unexpectedly advised the Council in June 2023 that they were no longer able to accrue committed funds into a subsequent financial year meaning that grant funding can no longer be carried over to the next financial year.
13. Due to the unexpected delays to the project, only £2.7 million of the Sustrans grant will be spent this in 2023/24, resulting in a £3 million shortfall for the works required in 2024/25. As the tender is at an advanced stage, it is not possible to split out the active travel elements.
14. A formal appeal was made in the form of a letter from the Council's Chief Executive to Transport Scotland's Chief Executive to request consideration to allow the £3 million underspend to be carried over, as has been done in previous years for various projects. Unfortunately, Transport Scotland confirmed this will not be possible.
15. The active travel route is a key part of the Aurs Road project and it will bring wide-ranging benefits for East Renfrewshire residents. It provides the opportunity to transform walking and cycling connections in the local area therefore merits increased investment from East Renfrewshire Council.
16. Both Transport Scotland and Sustrans have specified that priority consideration will be given to this project in the future and have invited a further grant application for the £3 million in 2024/25. Should this award be successful, the £3 million would be returned to East Renfrewshire Council budgets. Every effort will be made by officers to recover the £3 million shortfall through grant applications.
17. Once funding is confirmed, a contractor can be appointed and a start date for construction can be set (estimated as late 2023/early 2024). A 12 month construction period is anticipated.

FINANCE AND EFFICIENCY

18. East Renfrewshire is benefiting from a £44 million investment package comprising £38 million investment from the Scottish and UK Governments and co-funded by the Council through a £6 million capital contribution.
19. An additional Council £3 million investment in the Aurs Road scheme is required for 2024/25, due to a change in Scottish Government policy which prevents Sustrans from agreeing to carry forward outstanding committed funds. The Council has been invited to reapply for £3m Sustrans funding in 2024/25, but the outcome of this application will not be known until March or April 2024, Council is therefore being asked to guarantee the availability of this sum in the interim to allow the tender to be accepted and the project to proceed this year.
20. The Council has options as to how it might cover the £3m. We have sufficient resource available in our Capital Reserve (currently £5.4m) to cover the required contribution. Further, we await an announcement on the Council's bid for two replacement schools under the Learning Estate Improvement Programme (LEIP 3) and, as it is unlikely that we will be successful in both bids, there is also likely to be some scope within existing financial plans to cover the required sum. We would intend to avoid an increase in borrowing wherever possible, with current high interest rates on borrowing of £3m having loan charge implications of between £216k and £241k per year for a period of 20 years.
21. Should the Council be successful in receiving grant funding by Sustrans/other partners in 2024/25, any Council contribution would be returned, but this is not guaranteed.

Contingency Within Overall Project Budget

22. The contract is being procured using the NEC3 Engineering and Construction Contract where the contract document makes no allowance for contingencies. Using this type of contract, the contract sum is a fixed price amount. Nonetheless, in all Contracts changes occur and the risks identified can materialise at which point mitigation measures need to be implemented.
23. In any construction contract, a Contractor may be asked (or forced due to issues outwith their control) to make a change or deviate from the agreed plans e.g. abnormal weather conditions causing delays; design errors; unforeseen soil conditions; identified risks materialising etc. are just a few issues that can arise and cause a change to be instructed. Making provision for a contingency sum allows this flexibility, and should be viewed not as a loss or overspend, but as a tool to complete the project within budget.
24. Once an issue is identified and the need to possibly utilise the contingency budget arises, the NEC3 Contract sets out a process to be followed. An Early Warning is given notifying the parties of the issue that could lead to a change. (It must be understood that some circumstances can prevent an Early Warning notice being raised as some issues may occur and need rectification urgently). The raising of the Early Warning affords the design team an opportunity to consider the issue and seek to resolve the situation as best they can. This resolve could be a cost/time saving solution; a cos /time neutral solution; or a cost/time increase.
25. Not all Early Warnings lead to a negative outcome. Following the Early Warning notice, and a meeting to agree a resolve, a Compensation Event is then raised and considered if there is a change to the scope, price or timeline.

26. Under NEC3 contracts, any changes to the Scope of Works leads to a Compensation Event where the Contractor is entitled to additional monies and the original agreed fixed price contract sum is then adjusted upwards to account for the change, (provided the change is deemed not to be the fault of the Contractor). Compensation events relate to any changes and / or risks materialising in the contract and, in order to adhere to contract conditions, must be considered within 14 days. Any decision to increase the Contract Sum must be adhered to. The NEC3 Project Manager, as Contract Administrator, must administer the contract in an impartial manner and carry out their duties in strict accordance with the terms and conditions of the Contract.
27. All communication / documentation relating to the Contract is recorded and maintained so recording of an issue, actions instructed to resolve, reasoning and final decisions are all transparent and available for audit purposes. NEC contracts encourage good project management and clear communication in written form in an attempt to stave off disputes.
28. Our Design Team prepared a cost plan for the project which demonstrates there are available funds to be allocated as a contingency allowance of approximately 10% of the contract sum funded from the overall project budget.
29. A risk register has also been produced and costed to try and estimate the cost of variations and unknowns, we expect this to be in the region of £1.5m.
30. To agree these Compensation Events timeously there is often limited time in which to prepare a full report and approach Cabinet for agreement. The need to seek cabinet approval to use the within budget contingency could add further constraints to the contract management process. By formally recognising the defined contingency pot is within the approved project budget, Cabinet will negate the lengthy process of seeking Cabinet approval for every Compensation Event.
31. Notwithstanding the contingency allowance, if project costs escalate to the extent there is a risk of the contingency pot being breached, a full Cabinet paper would be prepared and presented to afford Cabinet members the opportunity to make a decision and take appropriate action.
32. For the reasons set out above, Council approval is sought for the use of a contingency allowance of approximately 10% of the contract sum funded from the overall project budget.

CONSULTATION

33. Officers have consulted in depth with partners at Sustrans, Transport Scotland, the Glasgow City Region Project Management Office as well as internal finance and procurement.

PARTNERSHIP WORKING

34. Partnership working is key to the delivery of the Aurs Rd project and partners have been engaged to find possible solutions and ways forward to achieve project delivery. This project is being led by the Council's City Deal and Infrastructure team and involves multiple stakeholders and partners internally at Council including roads, planning, legal, procurement and property. External partners include the Glasgow City Region City Deal Programme Management Office, Scottish Water, Sustrans, Transport Scotland and local landowners.

IMPLICATIONS OF THE PROPOSALS

35. An equalities impact assessment in accordance with the Equality Act 2010 has been undertaken for this project, to supplement the Equalities and Human Rights Impact Assessment (E&HRIA) that was prepared alongside the East Renfrewshire Proposed Local Development Plan. The E&HRIA sets out what positive and negative impacts for the plan or its policies might have. Individual City Deal funded projects are assessed individually at the appropriate time within the preparation of each business case and in conjunction relevant Council colleagues.
36. For the Aurs Road Improvements project, a Climate Change Impact Assessment (CCIA) Stage 2 Report was undertaken in November 2022 which concluded that the project will have a moderate detrimental impact on Council Operations achieving Get to Zero which will be limited to the years of construction with no long-term detrimental impact beyond the supply-chain emissions. The project will have a small positive effect on climate impacts and a small positive effect on climate adaptation with the delivery of active travel routes and the possibility of using which solar street lighting would reduce impact on electricity emissions.

CONCLUSIONS

37. The Aurs Road improvement project is a critical part of East Renfrewshire's £44 million City Deal programme, which aims to stimulate sustainable inclusive economic growth. Delivery of this key project is at a crucial stage with the approval of the tender and appointment of a contactor imminent.
38. Plans are in place to enhance the City Deal funded element of the project with an exemplary active travel route. Developed as part of a successful Sustrans grant application, this route will deliver a safe segregated route between Barrhead and Newton Mearns including a pedestrian and cycle path, promenade, bridge and associated landscaping.
39. Due to third party delays out with the Council's control, and a recent change to Sustrans' financial processes, there is currently a £3 million shortfall in Sustrans' grant funding for 2024/25. In order to award the Aurs Road project tender, this £3 million requires to be underwritten by the Council. It is anticipated that a future grant application will recover these funds however this is not guaranteed.
40. Without the additional £3 million Council capital investment for 2024/25, the contract cannot be awarded for the delivery of the entire Aurs Road City Deal project and result in the loss of the significant associated benefits for local residents.
41. Without the contingency allowance the financial and delivery risk for the project increases as a direct result of the need to return to Cabinet with changes leading to a breach in terms and conditions of the NEC3 Contract and leave the Council open to legal challenge or court action.
42. Council is asked to note the Full Business Case for the Aurs Road Realignment projects will be submitted to the Glasgow City Region Programme Management Office on the 16 September for appraisal and approval by the Chief Executives' Group which will release the final tranche of funding.

RECOMMENDATIONS

43. The Council is asked to:

- a) note the progress and strategic importance of the Aurs Road City Deal project;
- b) note the changes to Sustrans financial grant funding rules for 2023/24 and the possibility of a successful application for the £3 million in 2024/25;
- c) approve the allocation of £3 million in Council funds to the Aurs Road project in 2024/25 to cover the shortfall should the grant application for completion of works in 2024/25 not be approved;
- d) approve the use of a contingency allowance of approximately 10% of the contract sum funded from the overall project budget; and
- e) note the submission of the Full Business Case for the Aurs Road Realignment projects to the Glasgow City Region Programme Management Office.

Director of Environment

Further information can be obtained from: Gillian McCarney, Head of Place
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September 2023

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Aurs Road

Existing Layout:



Proposed Layout:



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