

Report to: Cabinet
Date of Meeting: 10 July 2019
Public Document: Yes
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Subject: Long Lane Enhancement Scheme

Purpose of report: To provide an update on progress with securing financial contributions towards the Long Lane enhancement scheme.
To recommend a reduction to the extent of the scheme to reflect a change in the risk profile associated with the works

Recommendation: It is recommended that the scope of the Long Lane enhancement scheme is reduced to delete the section between the Flybe Training Academy and Harrier Court.

Reason for recommendation: To adequately manage the risk associated with securing financial contributions towards the enhancement scheme and to protect the Council's position.

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Financial implications: This report recommends an appropriate approach to deal with the financial risk highlighted in the report. The net funding for this scheme will be met from Enterprise Zone receipts as previously agreed by Council.

Legal implications: The report does not alter the overall legal position which was commented on in the report to Cabinet in March 2019 when the decision to proceed was taken. Legal have been involved in the discussions on the security arrangements and have advised of the need to ensure security (of some description) given the potential risk to the Council. Given that this appears incapable of satisfactory resolution, the solution is to lower the total project cost and thereby the associated risk profile to the Council. This seems a pragmatic approach in terms of moving the project forward (albeit not desirable) and is entirely lawful. Otherwise the legal advice remains as per the March 2019 Cabinet report.

Equalities impact: Low Impact

Risk: High Risk
This report seeks to address a specific risk to the Council, namely the ability to secure a financial contribution towards the Long Lane enhancement scheme. The report outlines a change in the risk profile for the project and recommends a course of action that will effectively mitigate this.

Links to background information: [Cabinet Paper – March 2019](#)

Link to Council Plan: Developing an outstanding local economy

Report in full

1. Background

- 1.1 Long Lane runs in an east/west direction to the south of Exeter Airport. It connects to the B3184 and provides the main point of access to the Airport, Flybe Hangar and Training Academy and the Airport Hotel. When travelling in an easterly direction the Lane quickly narrows to below the standard (6.5m) needed to accommodate the two way flow of HGV traffic. This includes substantial stretches of single carriageway. The inadequate nature of the current highway is a major barrier to bringing forward the Airpark Enterprise Zone site.
- 1.2 The Cabinet received a paper in March 2019 which set out a proposal for funding an enhancement and upgrading scheme for the Lane. This comprised of three main sections including the stretch to the east of the Flybe Training Academy towards Harrier Court. This was itself connected with the need to provide enhanced access for the convertor station for the proposed France-Alderney-Britain Link project. The proposals and estimated costs are set out in the plan in Appendix A and also illustrated in aerial form in Appendix B.
- 1.3 Cabinet resolved to make up to £3m available to fund the enhancement scheme. This was subject to securing contributions from both the Airpark (£300k) and FAB (£670k) projects. Delegation was approved to the Chief Executive in consultation with the Leader and Strategic Leads for Finance and Governance and Licensing to agree the terms and complete the funding agreement and any other necessary legal documentation.

2. Current Position

- 2.1 Since the March Cabinet meeting negotiations have continued to secure the contributions detailed above. Legal representation has been appointed to produce both a draft heads of terms document and a bespoke facility agreement. Due to the timing of the proposed enhancement scheme, which is likely to precede the start of construction of the Airpark and FAB projects, a bespoke funding agreement is required rather than the more established mechanism of a s.106 agreement. This arrangement has been used successfully elsewhere, for example to support the delivery of the Clyst Honiton By-pass.
- 2.2 The draft legal document have been shared with both AD Land in respect of the Airpark development and Transmission Investments in relation to the FAB project. As a result of the subsequent feedback it has become clear that there is a major issue in relation to progressing the latter agreement.
- 2.3 This issue relates to the security provisions underpinning the financial contribution. These would be exercised only in the event that a relevant trigger point is reached but payment is not forthcoming. Ordinarily this would take the form of a bond, parent company guarantee or charge over the relevant land. It has become clear that the FAB project is not prepared to offer any form of security in this respect prior to the project reaching Final Investment Decision (FID). This is in itself dependent on the outcome of Brexit and approval from the French regulator.

3. Assessment

- 3.1 Substantial engagement has been undertaken with a wide range of stakeholders and partners over the past 18 months to develop the proposed enhancement scheme. At an early stage a 'one scheme once' principle was established. In other words the intention was to deliver a full upgrade scheme as one package of works. This would have the effect of both resolving key outstanding issues and minimising overall disruption.

- 3.2 The extension of the Long Lane enhancement scheme beyond the Flybe Training Academy to Harrier Court has a capital cost of circa £1.4m. As well as providing access to the proposed FAB convertor station this element of the scheme also has a significant future proofing benefit, for example to support the future expansion of the Airport or further strategic employment allocations.
- 3.3 The inability of the FAB project to offer any security to underpin the £670k contribution significantly changes the risk profile. It is conceivable that the entirety of the enhancement scheme will have been undertaken (and the full capital costs incurred) prior to the FAB project reaching FID. This is a position which has to be protected and, as a point of principle, it is considered that some form of security is essential to underwrite the expected contribution. Such an arrangement would only kick in if the project proceeds, the relevant trigger point is reached but the payment is not forthcoming.
- 3.4 The mechanics of the funding for the upgrade of Long Lane was set out to the relevant parties in October 2018. This included reference to security provisions. Subsequent negotiations focused on the quantum of overall contributions and the associated trigger points rather than the specifics of how it would be secured. This included correspondence from the FAB Link in February of this year which set out that any financial obligation would be wholly contingent on the project reaching FID. This was acknowledged in the March Cabinet paper which recognised that the precise timing and scheduling of payments (including trigger points and long stop dates) still needed to be confirmed and enshrined within a bespoke funding agreement.
- 3.5 The security provisions were not an explicit element of the Cabinet paper. Nonetheless it remains a vital ingredient in terms of safeguarding the Council's position. The inability of the FAB Link project to be able to offer any security therefore fundamentally affects how to proceed. In light of this it is considered that the best way forward is to reconsider the extent of the scheme and to delete the proposed stretch between the Training Academy and Harrier Court (coloured yellow in Appendix B). This corresponds with Option 3 set out in the March Cabinet paper. Whilst this will result in an expected saving of £1.4m in terms of capital cost, it does also mean that the ability to secure the £670k contribution will also be lost.

4. Conclusion

- 4.1 The enhancement of Long Lane is an important project which, in addition to unlocking the Airpark Enterprise Zone site, will also bring a series of wider benefits including improved public transport provision. It has become clear as part of the negotiation process that the inability to secure the financial contribution from the FAB project significantly changes the risk profile associated with it. Subsequently, and despite of the 'one scheme once' principle, it is considered that reducing the overall scope of the scheme is the best way to protect the Council's position whilst still ensuring that future investment and employment can come forward.