

7 July 2021		ITEM: 22 Decision: 110577
Cabinet		
Grays South: Delivering the Pedestrian Underpass – Project Progress		
Wards and communities affected: Grays Riverside	Key Decision: Key	
Report of: Councillor Mark Coxshall, Cabinet Member for Regeneration, Strategic Planning and External Relationships		
Accountable Assistant Director: Dr Colin Black, Interim Assistant Director, Regeneration and Place Delivery		
Accountable Director: Sean Clark, Corporate Director Resources and Place Delivery		
This report is public with exempt appendices which are exempt due to information relating to the financial or business affairs of any particular person (including the authority holding that information).		
Date of notice given of exempt or confidential report: 8 June 2021		

Executive Summary

Cabinet have agreed a scheme that will deliver an alternative to the level crossing in Grays High Street as a means of crossing the rail line.

The most recent Cabinet report supported a preferred design option but highlighted a potential budget issue and suggested that a further update would be presented after the next iteration of the cost plan. Design work has progressed and the next cost plan has been received. This report outlines the output of the cost plan and the next steps required to progress the project to delivery.

There are two reports relating to this project on the July Cabinet agenda. This report provides an update on project progress, sets out the project costs and budget and the next steps to design and construction. The following report seeks Cabinet approval to commence a Compulsory Purchase Order to ensure the required land can be acquired to enable scheme delivery. The second report relies on this report to confirm that there are no foreseen impediments to delivery so that when approving the use of Compulsory Purchase powers decision makers can be confident in the deliverability of the scheme.

1. Recommendation(s)

Cabinet are asked to;

- a) Endorse the next steps in the programme for the project.**
- b) Delegate to the Corporate Director of Resources and Place Delivery, in consultation with the Portfolio Holder for Regeneration and External Affairs, the procurement for the next contract stages set out in the programme**
- c) Approve the latest iteration of the cost plan appended to this report, inc paragraphs 3.8 and 3.9 and note the efforts made to continue to drive cost efficiency.**

2. Introduction and Background

2.1. Members will be aware of the safety concerns related to the level crossing in Grays and of the way in which the gate closures create a barrier to movement between the town centre and the southern side of the level crossing towards the riverfront. In response to these issues, in July 2013 Cabinet agreed to work up a scheme to replace the level crossing with a high quality pedestrian underpass. Since then Cabinet has been kept informed of progress as below:

- April 2017 – Agreement of a joint delivery approach with Network Rail, a funding strategy and a land assembly strategy.
- July 2020 – Approval in principle of the design output from the delivery agreement with Network Rail and selection of Option C – the Plaza as the preferred option.

2.2. The most recent report highlighted that the forecast costs were significantly in excess of the approved budget. An approach to cost mitigation was set out and it was noted that the next iteration of the cost plan would be reported to Cabinet once available. The following sections of this report describe the further design work, the output of the latest cost plan and outline the next steps required to continue progressing the delivery of the project.

2.3. NR have produced a revised cost plan which can be found at appendix 1. As the next stage of works is not yet in contract the breakdown remains commercially sensitive and is therefore exempt from publication. This cost plan is not a binding commitment but a foundation to move forward to the next project stage with NR, the GRIP (Governance for Railway Investment Projects process).

3. Issues, Options and Analysis of Options

Delivery Programme

- 3.1. The project continues to follow the NR GRIP programme. It is a multifaceted project, not just due to the proximity of the operational railway and adherence to railway standards, but due to the complex requirements/constraints of some key stakeholders. As a consequence the project has required a lengthy process for design thus far, and will continue to do so for land assembly, consents and construction. Option C remains the option that is being developed in further detail and the ongoing design of this option has informed the latest cost plan.
- 3.2. Key project milestones are as follows:

Description	Start	Finish
Procurement and contracts for next stages	01/06/2021	02/11/2021
Land Assembly ¹	Ongoing	28/11/2022
Single Option Development	03/11/2021	31/01/2022
Detailed design	01/02/2022	25/11/2022
Implementation ²	28/11/2022	21/03/2024
Project Handback	22/03/2024	19/06/2024
Project Close Out ³	20/06/2024	17/09/2024

Note:

¹: If CPO is required 6-12 months could be added to this part of the programme.

²: Assumes rail possessions not changed and subject to ground conditions

³: This date is for the completion of underpass, steps and ramps. Public squares complete after this date.

Cost Position

- 3.3. In 2017 Cabinet approved a budget of £27.4m to deliver the project. It was proposed that funding was drawn from a range of sources and the project was subsequently successful in securing £10.8m from SELEP's Local Growth Fund. This funding must be spent by the end of the 2021/22 financial year.
- 3.4. The budget was approved based upon an early feasibility work, an emerging design and what was known at this time relating to site constraints and risks to the project. The budget assumed a much quicker programme than it has been possible to achieve.
- 3.5. In July 2020 Cabinet was advised that the Network Rail cost plan suggested a cost estimate between £22.2 and £25.2m for the Infrastructure elements of the project (i.e. the elements proposed to be delivered via a contract with Network Rail). Additionally, land assembly and public realm costs, required to be delivered separately by the Council, brought the estimated total project costs to between £34.9m and £37.9m, with option C 'The Plaza' as the option being taken forward. It was reported at this time that these were only estimates and the cost plan would be revised as the design work continued to develop.
- 3.6. A cost mitigation plan was proposed and actioned. The impact of this plan can be found at paragraphs 3.15-3.24.

- 3.7. Based on further detailed design work and the completion of the latest contract with NR a revised cost plan has been produced which anticipates the infrastructure element being £21.2m in value. Adding in the wider project costs, that are outside of the NR contract such as land assembly and public realm, takes the expected project cost to £37.3m.
- 3.8. Whilst this remains at the top end of the budget range previously reported this is a much more robust budget and is reflective of the current scheme design and construction methodology. A breakdown of the total project budget is shown in appendix A. It should be noted that responsibility for some of the costs has moved between the parties so a like for like comparison is not appropriate.
- 3.9. The direct NR Project Management costs are higher than would be expected for a project of this size and this has been a key driver in the rising cost of the project. The Council will continue to challenge NR on the fees applied, so as to apportion costs in manner that reflects the benefits of the project for all stakeholders.

Risk

- 3.10. It is important to note that this cost plan is based upon a set of assumptions and unknowns which may change as the project progresses. GRIP 4 (Single Option Selection) and GRIP 5 (Detailed Design) tend to be where the assumptions are fixed and the amount of unknowns must be as close as possible to zero. The project is still in the development stage and further work is required to address these at project level. The following paragraphs highlight the key risk areas that are known at this time.
- 3.11. The latest cost estimate is based on a programme that assumes a start on site in late 2022. Any delay to this programme could increase the overall costs. The main risk at present is that the programme assumes all land assembly can be completed by negotiation. Much of the CPO process is outside of the Council's control and could add up to 12 months on to this programme. See Cabinet Report: Grays South: Delivering the Pedestrian Underpass – Land Assembly (part exempt) July 2021 for further information.
- 3.12. High level costs for utility diversion have been included but these costs still require further investigation and confirmation from the utilities providers. It is proposed that NR continue to be best placed to take on this risk and discussions are ongoing to ensure responsibility for this element is allocated to the best placed party.
- 3.13. The scheme is costed based on professional advice from cost consultants and has had some early engagement from the NR supply chain. However, the scheme has not yet been tendered and market forces at the point of tender could influence the costs that are returned.

- 3.14. The cost plan addresses the ongoing risk profile by allocating appropriate contingency amounts to the various elements of the scheme. The project team and NR are continuing to challenge the design, programme and construction methodology to ensure that assumptions continue to be refined, cost efficiency maximised and risk appropriately provided for.
- 3.15. Taking the above into account, against the budget approved in 2013 there is a funding gap of approximately £10m on this project. Should the recommendations in the Capital Programme Update (on the same agenda as this report) be approved additional funding for this project will be provided to close this gap.

Driving Cost and Budget Efficiency

- 3.16. The July 2020 cabinet report outlined a number of strategies to be employed to further reduce the cost and/or increase the budget from external sources. These continue to be progressed and an update on these approaches are detailed below.

Design Value Engineering

- 3.17. Value Engineering workshops were arranged within this contract stage. NR have identified £1.8m of opportunities that may be available to the project once the scheme is developed further.
- 3.18. At the next stage of design (GRIP 4: Single Option Development) further Value engineering workshops will be programmed to take place with the aim of promoting the substitution of materials and methods with less expensive alternatives, without sacrificing functionality and our project objectives.
- 3.19. It is still anticipated that the risk allowance percentage currently allocated can reduce as the design evolves and the uncertainty on the project reduces.

Challenge Network Rail Fees and Escalation

- 3.20. The project team continue to challenge NR on various aspects of their fees. Previous challenges on the level of fee cost required to project manage their involvement has identified savings of between £300k-£650k. A guarantee has been given from NR that the assumptions underpinning this cost plan are not binding, do form a foundation for a starting point for the next project stage and are open to discussion as the project progresses.

Future Contracting Strategy

- 3.21. Project Officers have been examining various alternative strategies for future contracts with Network Rail, and these are ongoing. It is recommended that decisions on future procurement are delegated to the Corporate Director of Resources and Place Delivery, in consultation with the Portfolio Holder for Regeneration and External Affairs.

Network Rail Contributions

- 3.22. NR committed to explore whether any further financial contributions could be made from their own internal funding sources. These conversations continue but to date NR have confirmed a financial contribution of £636K if the rail level crossing is closed before the end of March 2024, subject to contract.
- 3.23. It has also been agreed that necessary NR non-operational owned land will be contributed to the project at nil cost other than coverage of NR fees.
- 3.24. Officers are continuing to seek further financial contributions from the Rail Industry due to the significant benefits the closure of the level crossing brings to all parties and are challenging the allocation of costs that are not directly related to provision of the underpass (i.e. the removal of redundant level crossing infrastructure). Project officers have repeatedly informed Network Rail that the Council will not be liable to pick up these costs.

Additional Funding Opportunities

- 3.25. Other external funding opportunities to increase the original budget have been, and continue to be, explored such as the Levelling Up Fund and Town Fund.

Next steps

- 3.26. There is a good opportunity to build upon the positive momentum the project has recently undergone. Based on the latest information from NR, there is a clear rationale to justify continuation of the project.
Immediate priorities include:
 - a. Approve this latest iteration of the plan, noting the efforts that have been/continue to be made to drive cost efficiency. This marks the end of GRIP Stage 3.
 - b. Endorse the entering into contract with NR for the continued development and construction of the project at the appropriate time and delegate the decision making. This is proposed, due to plans in place to bridge the funding gap and the risk of added costs if the project is paused for any significant period of time.
 - c. Commence CPO – refer to Cabinet Report: Grays South: Delivering the Pedestrian Underpass – Land Assembly (part exempt). July 2021.

4. Reasons for Recommendation

- 4.1. The existing level crossing presents a clear safety risk. There have been no fatalities or serious injuries but the number of 'near misses' has increased significantly.

4.2. The cost plan, presented here, marks a milestone in the development of this scheme. Much technical work has been undertaken over the past year to get to this stage and refine this cost plan. It is time to progress the project to the next stages so as to stick to programme and further refine assumptions so as to deliver this project to both parties satisfaction.

4.3. Delegating the decisions for future procurement contracts enables the necessary further scrutiny of this cost plan at officer level and to ensure the best delivery route is selected ensuring value for money for the project.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1. The project has been considered at the following meetings of Cabinet;

- July 2013: Decision No. 01104224
- December 2014: Decision No. 01104345
- April 2017: Decision No. 011044419
- July 2020: Decision No 110515

5.2. The approach to the project has been reviewed by Planning Transport and Regeneration Overview and Scrutiny Committee;

- March 2014
- March 2017
- July 2020
- July 2021

6. Impact on corporate policies, priorities, performance and community impact

6.1 The recommendations facilitate the delivery of a key regeneration project in Grays identified in the Councils strategies described at para 4.1 and the Capital Programme.

7. Implications

7.1. Financial

Implications verified by: **Jonathan Wilson**
Assistant Director - Finance

As outlined in the report, the latest cost plan is above the approved budget of £27.4m and there is no financial commitment required beyond the current contractual commitment for this design stage. However, the underpass cost plan endorsed by NR suggests a cost of between £21.2m for the infrastructure elements of the project. In addition to this, the Council needs to fund land assembly and the adjacent public realm bringing the total project estimated cost to £37.3m.

The report details mitigation options that have been deployed so far and the success of these along with mitigations that continue to be pursued to reduce the cost of the project and/or to secure additional external funds to support the budget.

There is a separate report on the Cabinet agenda for July 2021, namely the Capital Programme Update, which reviews the Capital Programme and funding for projects including this project and proposes a reallocation of funds to this project to close the funding gap.

7.2. Legal

Implications verified by: **Tim Hallam**
Strategic Lead – Legal Services

The Council is near the completion of a Development Services Agreement with Network Rail for this stage of design. A further agreement will be required for the later stages including detailed design and construction which still needs to be established.

The Council will need to comply with the Public Contract Regulations 2015 in any works contracts it awards for this project and the form of contract should be one that meets the requirements of the Council for such projects with robust works specifications.

The delivery of the underpass will require land assembly and possibly a CPO. The Council has already resolved to use its CPO powers if required. For details on land assembly please see Cabinet Report Grays South: Delivering the Pedestrian Underpass – Land Assembly, on Cabinet agenda for July 2021.

7.3. Diversity and Equality

Implications verified by: **Becky Lee**
Team Manager – Community Development and Equalities

The project has been the subject of stakeholder engagement summarised in previous reports to Cabinet, and further engagement will continue. There will be further detailed stages of design and submission of applications for planning permission and other consents. Further engagement activity will take place as the designs are developed which will include an Equalities Impact Assessment – details of which can be found in Cabinet Report Grays South: Delivering the Pedestrian Underpass – Land Assembly, on Cabinet agenda for July 2021.

The design will comply with all relevant legislation and standards for accessibility.

7.4. Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder, and Impact on Looked After Children)

Completion of this project will remove a safety risk from the heart of Grays Town centre.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Cabinet Report: Grays Town Centre Framework Draft Report deposited in Members rooms. July 2015
- Grays Development Framework 2016
- Cabinet Report: Delivering the new Pedestrian Rail Crossing. Decision 01104419 April 2017.
- Cabinet Report. Grays Master Plan – Town Centre Framework. Decision 0110443 November 2017
- Planning, Transport, Regeneration Overview and Scrutiny Committee. Grays South Regeneration Project: Delivering the Pedestrian Underpass. ITEM 5 January 2019.
- Cabinet Report: Grays South Regeneration Area: Underpass and public realm option selection. Decision 110515 July 2020

9. Appendices to the report

- Appendix 1: Headline Cost Breakdown (exempt)

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