

Title of Report	MARLBOROUGH SQUARE PUBLIC REALM - TENDER PRICE UPDATE	
Presented by	Councillor Richard Blunt Leader Of The Council PH Briefed - Yes	
Background Papers	Community Scrutiny Report – 9 February 2022 Cabinet Report - 15 February 2022 General Fund Budget and Council Tax 2023/24 – 23 February 2023	Public Report: Yes Key Decision: Yes
Financial Implications	<p>Cabinet on 15 February 2022 approved construction of the Marlborough Square Public Realm at an estimated project cost of £2,711,500.</p> <p>There have been delays in awarding the construction contract for Marlborough Square due to complications with securing the necessary S278 Highways Agreement. This has led to a situation whereby the contractor has stipulated a need to revise their price.</p> <p>As a result of the recently completed re-pricing exercise it has been identified that the cost to complete the project will be in the order of £2,843,982.</p> <p>The cost of delivering the scheme is now estimated to be £99,288 more than approved Cabinet on 15 February 2022. If the project is to proceed, the Council's capital investment will need to be increased by this amount. The required additional funding is available within the Council's approved capital programme (within the Coalville Regeneration Framework budget line) and Cabinet has the power to vire the money from the Coalville Regeneration Framework line to the Marlborough Square project code if it wishes.</p> <p>The Council is using a grant of £360,000 from the LLEP to finance the total cost of the scheme.</p>	
	Signed off by the Section 151 Officer: Yes	

<p>Legal Implications</p>	<p>The project is to be delivered on Public Highway within the control of Leicestershire County Council. A Section 278 process has been followed by the Council in order to obtain permission for the works and verbal approval has been achieved. The Formal S278 agreement will be signed before works commence. The S278 Agreement will make NWLDC responsible for the Marlborough Square Highway during the completion of the approved works and until Leicestershire County Council has inspected the roads afterwards and taken a commuted sum for to cover any maintenance issues. This responsibility is likely to last for 12 months post substantial completion of works.</p>
<p>Staffing and Corporate Implications</p>	<p>The project is being managed within existing staffing resources supported by specialist consultants where necessary. Staff costs are within existing revenue budgets. Provision to meet consultant costs has been included in the project budget outlined in the paper.</p>
<p>Purpose of Report</p>	<p>1) To report the updated construction price submitted by the preferred contractor and seek a renewed approval to proceed to award the contract.</p> <p>2) To identify project management, Quantity Surveyor and Clerk of Works fees that will need to be incurred by the council to deliver the works along with other permit costs such as for drainage connections, power supplies and Traffic orders.</p> <p>3) To seek agreement to vire £99,288 from the Coalville Regeneration Framework Budget line within the council's Capital Programme Development Pool to the Marlborough Square Public Realm Project within the Council's Capital Programme Active Projects to provide the necessary funding for the project to proceed.</p>
<p>Reason for Decision</p>	<p>The decision on whether to enter into a contract of the size and nature set out in this paper is a matter for Cabinet.</p>
<p>Recommendations</p>	<p>THAT CABINET:</p> <ol style="list-style-type: none"> 1. AGREES TO PROCEED WITH THE MARLBOROUGH SQUARE PUBLIC REALM PROJECT AT AN ESTIMATED REMAINING COST OF £2,843,982 2. AGREES TO VIRE FUNDING OF £99,288 FROM THE COALVILLE REGENERATION FRAMEWORK BUDGET LINE WITHIN THE CAPITAL

	<p style="text-align: center;">PROGRAMME DEVELOPMENT POOL TO THE MARLBOROUGH SQUARE PUBLIC REALM PROJECT WITHIN THE ACTIVE CAPITAL PROGRAMME.</p> <p>3. DELEGATES AUTHORITY TO THE STRATEGIC DIRECTOR (IN CONSULTATION WITH THE PORTFOLIO HOLDER) TO AWARD THE CONSTRUCTION CONTRACT WITHIN THE AGREED BUDGET.</p> <p>4. NOTES THE INTENTION TO BRING A FURTHER REPORT TO CABINET AS SET OUT IN PARAGRAPH 2.4.</p>
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1.0 BACKGROUND

- 1.1. A full business case for the Marlborough Square Public Realm Project was presented to Cabinet on 15 February 2022. In the report presented, it was identified that the estimated cost to deliver the project would be £2,711,500. Full details of external funding contributions and the amount of funding required from the Council's Capital Programme were set out. It was noted that the allocation of funding was a matter for Council and that Cabinet recommended to Council on 24 February 2022 that budget be allocated for the project and that the scheme proceed by awarding a construction contract. On 24 February 2022, Council agreed the requested budget and confirmed that the project should proceed to award a construction contract.
- 1.2. The Cabinet meeting on 15 February 2022 also agreed (subject to Council agreeing on 24 February 2022 the allocation of budget and giving consent to proceed to award the construction contract) that delegated authority be given to the Strategic Director Place to; enter into highway agreements, negotiate the terms of the construction contract, complete such other agreements as may be necessary to implement the project, and negotiate a reduction or waiver of commuted sums and other fees with Leicestershire County Council (as Highways Authority) .
- 1.3. At the time the decision was presented to Cabinet it was anticipated that the S278 agreement and all other things necessary to enable the scheme to proceed would be forthcoming during spring 2022, ahead of the award of contract under delegated authority and the commencement of works planned for May 2022.
- 1.4. In reality, the agreement of the S278 has taken far longer than anticipated. The Highways Authority has required the submission of significantly more information than their Guidance Notes initially indicated and there have been a number of technical changes imposed by third parties. Verbal Technical Approval of the S278 was received from Leicestershire County Council Highways Department. in February 2023 and this is now being progressed to completed legal agreements.
- 1.5. The Council's preferred contractor (Stepnell) was originally selected in late 2021 via a two-stage mini competition using a framework agreement. Stepnell has retained its interest in undertaking the construction contract, despite almost 18 months of delay since its initial price submission.
- 1.6. Over the 18 months since Stepnell was selected as preferred contractor, the scheme of works has been subject to significant changes in specification and materials in order to meet Leicestershire County Council's Highway requirements and achieve the

Section 278 agreement. In particular, there have been changes to the form of sub-base to be used and the depth of construction. There has also been a significant degree of construction cost inflation over the period.

- 1.7. The Quantity Surveyor employed by the Council has advised that with the current bill of quantities being significantly different to that priced in early 2022, and labour and material prices having changed, both parties would be best protected by the contractor undertaking a re-pricing exercise. The outcome of the re-pricing exercise is set out in section 2 of this report.

2. FINANCIAL IMPLICATIONS

- 2.1. Since the project was presented to Cabinet in February 2022, preparatory costs have continued to be incurred in order to reach a point, of verbal Section 278 approval. The amount spent in the 22/23 financial year was £91,814.

- 2.2. The current financial position is as follows:

- The current total project cost is remaining to be incurred is £2,843,982 (this excludes the £91,814 expended in 2022/23).
- The current available budget is £2,744,694 (2022/23 carried forward budget of £2,384,694 + £360,000 Leicester and Leicestershire Enterprise Partnership (LLEP) grant funding). £192,887 of the LLEP grant has been received to date.
- This means there's a funding shortfall of £99,288 (project costs of £2,843,982 - £2,744,694 available budget) to complete physical implementation.

The anticipated remaining costs to complete delivery are:

Expenditure Item	Amount Reported In February 2022	Amount At June 2023	Notes
Fees (Supervision, legal costs)	£55,000	£208,310	Includes NWLDC QS, Project Manager and Clerk Of Works costs which were not fully known in February 2022 but which are now calculated to take us through to the end of project implementation.
Permits, Connections and Utilities	£25,000	£35,471	Additional costs attributed to Traffic Regulation Orders (TRO), and Temporary Traffic Regulation Orders (TTRO) and other (non 278) highways permits
Construction (tender price)	£2,265,000	£2,503,076.	Price increase equates to 13% which is below construction market rate of annual inflation
Contingency	£50,000	£97,125	Based on a priced risk assessment
Total	£2,395,000 *	£2,843,982	

- 2.3. The total anticipated project cost stated in the paper to Cabinet in February 2022 was £2,711,500. Additional expenditure on Equipment (Market Stalls and Interpretation Panels) has been removed from the latest estimate as details of what is required were not available at the time of drafting this report and will therefore be included as part of the development of the 2024/25 Capital Programme.
- 2.4. Commuted Sums and Highways Authority Supervision Costs payable to Leicestershire County Council were also included in the original cost estimate reported in February 2022. These figures are not included in the current project total. The Commuted Sum will not be known until the S278 Agreement is signed. The Supervision Cost (proposed to be an hourly recharge) will only be known once works are completed and the Highways Authority have confirmed Substantial Completion. It is not expected that these costs will be more than was reported in February 2022. These figures will be reported back to Cabinet as soon as they are known and will be funded from the Coalville Regeneration Budget Line within the current approved Council Capital Programme (£2.5m available over the next five years) or external grant if available.
- 2.5. The latest project implementation cost estimate includes £2,503,076 for actual construction work. The construction price offered by Stepnell is a fixed price and remains open for acceptance until 21 July 2023.
- 2.6. The latest tendered construction cost has only increased by £238,076 over the period since February 2022, despite the Highways Authority requesting significant changes to the works specification and 18 months of construction industry inflation where headline increases of 20% per annum have been reported. It is believed that the tender price currently being offered by Stepnell is good value for money. If the current price is not accepted by the stated expiry date, then as a result of construction inflation continuing, the Council's Cost Consultant has advised that any further re-tender exercise will yield a significantly higher price along with introducing significant delay to the commencement of works.
- 2.7. The fixed price offered by Stepnell is based on the drawings and specification provided to them. Should councillors wish to amend the designs or materials during the construction period then this will be treated as a variation and the contractor will be entitled to recover any additional costs associated.
- 2.8. If Client initiated Variations to the works are required, the Council's Cost Consultant will ensure and confirm that any such costs are reasonable and appropriate. The current total estimated project cost set out in this report includes a risk-based contingency of £97,125. The contingency sum does not cover all risks and members should be aware that despite carrying out all available surveys, until the site is excavated there remain a risk from unknowns in the ground.
- 2.9. The current total estimated project cost is currently £99,288 more than the available budget. The additional funding can be found by viring funding from the Coalville Regeneration Programme Budget line within the Capital Programme Development Pool, to the Active Programme.
- 2.10. The Coalville Regeneration Programme Budget line within the Development Pool contains funding that has been allocated by Council for the development of

Regeneration projects within the town which have not yet been identified. Virement of the funds to the Marlborough Square Public Realm project will not therefore prevent any other planned scheme from proceeding.

- 2.11. Should Cabinet decide to increase the budget for the Marlborough Square Public Realm project as set out in this report, then it is anticipated (subject to materials lead times) that construction would be undertaken during summer 2023 through to spring 2024 with a 34 week construction programme plus a Christmas closedown of five weeks (the Christmas closedown period has been allowed in order to avoid festive celebrations being disrupted by construction work) .
- 2.12. Based upon the above estimated start date and construction period it is projected that most expenditure would fall within the 2023/24 financial year, but contract retention sums would not become due for release to the contractor until 12 months following “Substantial completion” and would therefore fall into the 2024/25 financial year.
- 2.13. An estimated (broad) profile of expenditure is set out following. This should be considered indicative, with a more detailed expenditure profile information to be provided by the contractor once appointed and the construction programme has been agreed.
- 2.14.

Financial Year By Quarter	Anticipated Expenditure	Notes
23/24 Q2	£45,000	
23/24 Q3	£923,413	
23/24 Q4	£710,165	Inc Christmas shutdown
24/25 Q1	£905,702	Substantial Completion of works
24/25 Q2	£100,000	
24/25 Q3	0	
24/25 Q4	0	
25/26 Q1	£159,702	Retentions released. Commuted Sum and Highways Authority inspection Fees also likely to fall due at this time
Total	£2,843,982	

- 2.15. Whilst the majority of the project costs are to be met from the Council’s capital programme there is a small grant of £360,000 towards the project from Leicester and Leicestershire Enterprise Partnership. This grant has been taken into account when reporting the impact of the project on the council’s own resources and will be reflected

in future Capital Programme monitoring and reporting.

- 2.16. It is recognised that the project represents a significant capital project for the Council and that regular monitoring is required. In line with the Council's enhanced governance arrangements for capital investment it is intended the Capital Strategy Group will receive regular financial reports from the Marlborough Square Public Realm Project Board detailing financial progress of the scheme and allowing clear sight of the project's financial performance.

3.0 DECISIONS REQUIRED

- 3.1 The decisions and delegated powers made and granted in February 2022 remain in place and Cabinet has already agreed to proceed with the scheme. The project is being put before Cabinet again to recognise that the cost of implementation has increased and to seek agreement that the additional cost should be met from uncommitted funding within the council's approved 2023/24 Capital Programme (Coalville Regeneration Budget Line).

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Supporting Coalville to be a more vibrant, family-friendly town - Support for businesses and helping people into local jobs - Developing a clean and green district - Our communities are safe, healthy and connected
Policy Considerations:	None
Safeguarding:	None
Equalities/Diversity:	The Public Realm solution shown has been designed to accommodate all user groups and has been the subject of engagement with user groups.
Customer Impact:	The project will make a positive improvement to residents and visitors experience of Coalville
Economic and Social Impact:	The project is expected to increase confidence and pride in an important part of the town centre
Environment and Climate Change:	The project aims to improve the Coalville town centre environment. The materials selected are naturally occurring and have a very long life. The contractor proposed to be appointed has demonstrated their commitment to reducing their carbon footprint and minimising construction waste.
Consultation/Community/Tenant Engagement:	The project has been the subject of significant publicity and repeated public engagement.
Risks:	Financial failure of contractor – appropriate checks of the contractor's financial standing have

	<p>been undertaken by the Council's Finance team. Unexpected physical obstacle to delivery of works – extensive due diligence has been undertaken. The contractor is very experienced at delivering public realm projects. A contingency sum has been retained within the project budget.</p>
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