

Executive

**Open Report on behalf of Richard Wills,
Executive Director for Environment and Economy**

Report to:	Executive
Date:	01 November 2016
Subject:	The A15 Lincoln Eastern Bypass - Construction Contract
Decision Reference:	I012191
Key decision?	Yes

Summary:

Approval is sought to proceed with awarding a construction contract for the Lincoln Eastern Bypass.

In addition the Executive is asked to note the increase in the current cost estimate, albeit with the potential for significant savings during construction.

Recommendation(s):

It is recommended that:

- 1) The Executive approves the award of a construction contract to Carillion for Lincoln Eastern Bypass. This award will be subject to the confirmation of £49.95m funding by central government, expected in December 2016;
- 2) That the Executive notes the potential requirement for an increase in the County Council's contribution to the scheme cost, to cover the increases in costs since provisional funding was granted in 2011, and that there is potential for savings to be made on the current estimate;
- 3) That authority be given to the Executive Director for Environment & Economy, in consultation with the Executive Councillor for Highways, Transport and IT, to finalise and enter into the contract documentation when central government funding is confirmed.

Alternatives Considered:

1. Not to award the construction contract. In particular the contract could not be awarded to any other bidder without significant risk of legal challenge. The scheme could not proceed without this contract.

Reasons for Recommendation:

In order to comply with the necessary requirements for the construction of the Lincoln Eastern Bypass.

1. Background

1. Development of the Scheme

1.1 The Lincoln Eastern Bypass (LEB) is one of the County Council's priority schemes as identified in the County Council Business Plan 2012-15. It is the key element of the Lincoln Integrated Transport Strategy (LITS) that allows the wider benefits of the Strategy to be delivered. It also contributes to the wider aims of the city by facilitating growth and re-generation (as outlined in the draft Central Lincolnshire Local Plan) and is supported by the City of Lincoln Council, West Lindsey District Council and North Kesteven District Council. The route of the LEB is shown at Appendix A.

1.2 The LEB scheme has three clear objectives:

Objective 1: To support the delivery of sustainable economic growth and the Growth Point agenda within the Lincoln Policy Area through the provision of reliable and efficient transport infrastructure.

Objective 2: To improve the attractiveness and liveability of central Lincoln for residents, workers and visitors by creating a safe, attractive and accessible environment through the removal of strategic through traffic (particularly HGVs).

Objective 3: To reduce congestion, carbon emissions, improve air and noise quality within the LPA, especially in the Air Quality Management Area in central Lincoln, by the removal of strategic through traffic (particularly HGVs).

2. Transport Problems and Issues

2.1 Lincoln suffers from a number of transport related problems and issues that have a significant impact on journey reliability, journey times and network reliability throughout the city. The main issues are

- Lincoln's city centre currently suffers from high levels of congestion from local and strategic traffic movements - quality of life impacts, constraint to the economy, reduces the attractiveness of the city for residents, visitors and investors.
- A number of key strategic north-south routes converge on the city centre with few viable alternative routes; this results in significant levels of strategic traffic being channelled through the centre of Lincoln.

- Lack of alternative river crossings means that strategic traffic, including large numbers of long distance HGVs again are forced to converge on the A15 within the city centre. This intrusion of strategic traffic has been identified as a key constraint to Lincoln's continued success and a key driver for the promotion of LITS, including the LEB.
- 2.2 Traffic levels and the associated transport problems and challenges facing Lincoln are expected to increase over the mid to long term, which will place further stress on the highway network and likely have a significant impact on the local economy and Lincoln's development aspirations.
- 2.3 Significant housing and economic development is targeted for the Lincoln area. The Central Lincolnshire Local Plan sets out aspirations for additional dwellings and employment land within the Central Lincolnshire area by 2036. The North East and South East Quadrant Sustainable Urban Extensions have the potential to accommodate a significant level of development within the Lincoln area and the implementation of LITS (including LEB) will be necessary to facilitate and support their delivery in a safe and acceptable manner.

3. The Need for the Scheme

- 3.1 As described above, the LEB forms an intrinsic part of the Lincoln Integrated Transport Strategy and is a key intervention that will help achieve the transport aims and objectives identified in LITS as well as the development aspirations for Lincolnshire. The LEB is considered to be necessary to help alleviate the problems caused by congestion and support the delivery of national and local policy agendas identified for the Lincoln area up to 2036. In addition, without the addition of the LEB, the existing problems are forecast to increase and the challenges currently facing Lincoln will be exacerbated. In the absence of the LEB the forecast future conditions would also have a detrimental impact on the growth strategy for Lincoln.

4. Scheme History

4.1 The scheme

- 2005 - Planning permission granted for an eastern bypass of the City
- 2007 - Route revisited
- February 2008 - public consultation undertaken to engage elected members, selected stakeholders and the wider public to gauge opinion on three routes for the LEB.
- November 2008 - Preferred Route Announcement for most easterly route.
- 2009 - Funding bid made to government on dual carriageway scheme
- 2010 - Dual carriageway scheme granted planning permission. (Route alignment essentially the same as now being considered for the single carriageway).

- 2010- As a result of the government's comprehensive spending review the dual carriageway LEB was reviewed to look at reducing costs.
- September 2011 - Second funding bid for new single carriageway scheme submitted
- November 2011 - Scheme granted provisional funding by government
- June 2013 - Planning application for the single carriageway LEB scheme approved by the County Council's Planning and Regulation Committee.
- July 2013 - Orders (Compulsory Purchase, Side Road and Bridge Scheme) published for the scheme.
- January 2014 - additional planning application for new bridge at Hawthorn Road granted.
- February 2014 - Public Inquiry held.
- July 2014 - Secretary of State for Transport published his decision to not confirm the CPO and SRO for the scheme, although he did confirm the Bridge Scheme.
- October 2014 - Revised Hawthorn Road bridge granted planning consent
- October 2014 – revised Orders published
- August 2015 - further Public Inquiry held.
- February 2016 - Orders confirmed by the Secretary of State.
- June 2016 – tenders for main works issued
- August 2016 – tenders returned

5. The Scheme

5.1 The LEB will provide a new 7.5km single carriageway relief road that will link the A158 Wragby Road in the north to the A15 Sleaford Road in the south. The new route will be classified as the A15 on opening and will be subject to a 60mph speed limit.

5.2 The Scheme will comprise the following elements:

- Improvements to Wragby Road Roundabout
- New roundabouts at Greetwell Road, Washingborough Road, Lincoln Road Branston and A15 Sleaford Road
- New junction between LEB and the eastern section of Hawthorn Road (no access on western side)
- New bridge over River Witham, North Delph, South Delph and Canwick Fen Drain
- New bridges over Lincoln to Market Rasen railway line
- New bridge under Lincoln to Spalding railway line
- New bridge taking Heighington Road over the bypass
- New bridges for pedestrians, cyclists and equestrians at Hawthorn Road, Greetwell Road, Bloxholm Lane and over the South Delph
- New underpass for pedestrians, cyclists and equestrians at Lincoln Road Branston
- A 3m wide combined cycle, pedestrian and equestrian right of way (located on the western side of the carriageway) will be provided along

the full length of the scheme, to link up with existing public rights of way. The pedestrian, equestrian and cycle route is referred to as the NMU.

- Public footpath diversions to tie into the NMU Route

6. DfT\Third Party Funding

- 6.1 As noted above, the Best and Final Bid scheme was successful and achieved Programme Entry Status from DfT in 2011. The Scheme cost at that time was £96m which comprised £49.95m from DfT, with the remaining circa £46m initially coming from Lincolnshire County Council Highways Capital budget allocated to the Lincoln Eastern Bypass.
- 6.2 The County Council contribution includes underwriting third party contributions, as agreed at the Executive meeting held on 15 August 2011. To enable delivery of third party contributions as a result of development mitigated by LEB, a Memorandum of Understanding has been signed with the three partner authorities to the Central Lincolnshire Local Plan.
- 6.3 A funding application was submitted to DfT in early October to confirm the contribution of £49.95m from central government. This funding could not be confirmed until statutory processes (the Orders) had been completed and the tender process had resulted in a tender price being confirmed. It is expected that DfT will take approximately 8 weeks to review the application.

7. Network Rail

- 7.1 As noted above there is a requirement to construct a bridge on the Lincoln to Spalding railway line to allow LEB to pass under the railway.
- 7.2 Originally it was intended that the Council would design and deliver this bridge as part of the main works construction contract. Network Rail (NR) was however commissioned in February 2015 to procure a contract to deliver the bridge outside of the main scheme. The construction of an underbridge requires a closure of the railway line, a 72 hour disruptive possession (ie full closure) of the railway was therefore provisionally 'booked' for the half term week in February 2017.
- 7.3 The delivery of the 'hole' under the railway is critical to the main works as significant volumes of earthworks excavated to the south of the railway are required to construct embankments to the north which is effectively 'landlocked' without the 'hole'. (Refer to Appendix A). Without this access the earthworks movements will be either much more complex for the main works contractor or significantly delayed, resulting in considerable additional costs to the County Council. Early delivery therefore would have provided significant benefits to the main works.
- 7.4 In January 2016 NR informed LCC that the February 2017 possession had been 'disputed' by the train operators, both passenger and freight. NR therefore sought to provisionally book a later possession in October 2017 (this was stated to be the earliest feasible date the NR contractor could

achieve). This would have given access to LCC under the bridge in April 2018. This revised possession would mean that in practical terms the significant earthworks mentioned above would not be able to commence until the next earthworks season opens in March 2018. This will mean a potential completion of the bypass in 2019, 12 to 18 months later than expected. The October 2017 possession was again 'disputed' by the train operators, these disputes were not resolved until early September. This resolution confirmed the possession and allowed NR to enter into contract with both LCC and the NR contractor, with an expected start date on site in December 2016.

- 7.5 The project team sought political authorisation to enter into a legal agreement with NR to progress towards award of a construction contract. This authorisation was granted on 20 January 2016.
- 7.6 NR have recently provided an update to the costs following design development and a costing exercise by their contractor, based on an October 2017 possession. The current estimate for their works is £14,474,810.
- 7.7 It should be noted that there are a number of costs for risks and provisional items in this estimate. It is hoped therefore that this estimate will reduce once construction starts. There will also be an element of interaction with the main works contractor which could potentially bring further efficiencies.

8. The Main Works Contract

- 8.1 The contract is a standard form of engineering contract with a pricing mechanism known as a 'Target Cost'.
- 8.2 In this form of contract the Contractor tenders a target price using an activity schedule which is a simplified list of the items needed to build the bypass. Each activity is priced as a lump sum and a Fee is also tendered as a percentage for subcontract work and for the Contractor's own direct work. The initial target price is the sum of the activity prices and the fee. During the course of the contract, the target price is adjusted to cater for any changes to the works.

9. Tender Processes

- 9.1 The ongoing lack of clarity on a confirmed possession date had significant implications for LCC. Without a confirmed availability of the access for earthworks under the bridge LCC would have been issuing tenders for the main works at risk as the tender programme and price will be based on this availability. The project team therefore had to make a decision that the tender was either issued as soon as possible or wait until further certainty had been received from NR. A decision was made with these significant risks in mind and a tender was issued in June 2016, with a tender period of 12 weeks.

- 9.2 These tenders were in full accordance with the Council's procurement regulations. Tenders were returned in August 2016.
- 9.3 Several processes have been undertaken during the tender review period to validate the tenders:
- A checking of the financial submissions (70% of the score)
 - Evaluation and scoring of the quality submissions (20% of the score)
 - Tender interviews (10% of the score)
- 9.4 This assessment process has resulted in Carillion being identified in accordance with the evaluation criteria governing the procurement as the successful bidder, with a tender price of £52,953,475. If a contract is to be awarded, it must therefore be awarded to Carillion. Entering into the contract is subject to the confirmation of the central government funding, expected in December 2016.
- 9.5 In addition to the main works, because of the delay to the Network Rail scheme it was also decided to separate the archaeological investigations required along the route from both the main works and Network Rail's scheme. These archaeological investigations were required to discharge planning conditions imposed on the scheme. Several areas needed investigation prior to Network Rail starting on site in December 2016. A separate tender process was therefore carried out for these works and investigations commenced by Network Archaeology in September 2016.

10. Scheme Costs

- 10.1 The total scheme cost is now estimated at £99,597,437 and is summarised in the following table

	Element	Cost	Notes
1.	Preparation Fees	£7,261,386	FY 10\11 to date inc 2No. Public Inquiries
2.	Supervision Fees and Testing	£4,276,712	
3.	Construction tender	£52,953,475	
4.	Other Works	£635,739	Inc enabling works, land drainage and other misc costs
5.	Statutory Undertakers	£4,785,774	
6.	Archaeology	£1,978,546	
7.	Land\Part 1 Claims	£6,982,500	
8.	Risk	£6,086,000	
9.	Network Rail Spalding Bridge	£14,474,810	Including risk and contingencies
10.	Inflationary Costs	£162,495	
11.	Total Scheme Cost	£99,597,437	£3,739,737 increase on 2011 estimate

10.2 Within each of the costs listed above there are elements included for risks and contingencies. These can be summarised as follows:

Risk Element	Value	Comment
Scheme Risk	£6,086,000	Item 8 in above table
Contractors Risk	£513,660	In item 3 above.
Network Rail Risk	£1,582,030	In item 9 above
Network Rail Contingency	£2,536,245	In item 9 above
Statutory Undertakers Contingency	£435,070	In item 5 above
Total Risk Value	£11,153,005	

10.3 Risk workshops have been held to collate any risks that could either increase cost or delay programme and these have resulted in a risk value. It is expected that with careful management during construction (in conjunction with the contractor) many of the risks identified will not occur. These risk costs would therefore remain unused.

10.4 Whilst all will be done to ensure that risk amounts are not necessary and reductions are achieved in the Target Cost through the contract mechanisms, the Executive is asked to note for the potential for the scheme costs to increase.

11. Programme

11.1 At the time of writing, the current estimated programme for delivery of the Scheme is as follows:

- Late September 2016 – preferred bidder announced
- Early October 2016 – Submission to DfT for final funding approval
- November 2016 – Executive approval to award contract, subject to DfT funding
- Early December 2016 – DfT confirm funding available. Construction contract awarded, subject to Executive approval
- December 2016 – Construction of Network Rail Bridge commences
- Early to mid 2017 – Construction commences
- April 2018 – Network Rail bridge complete and access available for LCC
- Late 2019 – Scheme opens (subject to final construction programme)

This timescale is an estimate only and is heavily dependent on a number of external factors.

12. Legal Implications

Equality Act 2010

The Council needs to make sure that it complies with the public sector equality duty set out in S149 Equality Act 2010 when coming to a decision on the

proposals. In doing so, the Executive as decision-maker must have due regard to the needs to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 section 149(1). The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: section 149(7).

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others.

A reference to conduct that is prohibited by or under this Act includes a reference to (a) a breach of an equality clause or rule or (b) a breach of a non-discrimination rule

It is important that the Executive Councillor is aware of the special duties the Council owes to persons who have a protected characteristic as the duty cannot be delegated and must be discharged by the Executive. The duty applies to all decisions taken by public bodies including policy decisions and decisions on individual cases and includes this decision.

To discharge the statutory duty the Executive Councillor must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse

impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

Consideration has been given to the equality act duty in this instance and there are not considered to be any direct negative impacts of the decision. The works are not expected to take place in areas to which the public have access. To the extent that any of the works would affect members of the public, suitable measures will be taken to maintain access and safety for people with a protected characteristic.

Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS)

The Council in exercising its functions must have regard to both the JSNA and the JHWS.

Consideration has been given to the JSNA and the JHWS and as can be seen from the Objectives of the scheme set out below, especially Objectives 2 and 3, the scheme has significant benefits for both the health and wellbeing of people in Lincoln.

Objective 1: To support the delivery of sustainable economic growth and the Growth Point agenda within the Lincoln Policy Area through the provision of reliable and efficient transport infrastructure.

Objective 2: To improve the attractiveness and liveability of central Lincoln for residents, workers and visitors by creating a safe, attractive and accessible environment through the removal of strategic through traffic (particularly HGVs).

Objective 3: To reduce congestion, carbon emissions, improve air and noise quality within the LPA, especially in the Air Quality Management Area in central Lincoln, by the removal of strategic through traffic (particularly HGVs).

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

This requirement has been taken into account but the proposals set out in this Report is not considered to affect the above matters

2. Conclusion

It is recommended that a construction contract be awarded to Carillion, subject to a successful grant of central government funding in December 2016.

In addition it is recommended that the Executive notes the current cost estimate for the scheme is higher than that previously reported, although there are significant opportunities to reduce this estimate once the contractor has been formally appointed.

3. Legal Comments:

The Council has the power to award the contract referred to in the Report. The Council has pursued a procurement process in accordance with the EU procurement regime. Having identified a successful tenderer in accordance with that process it could not award the contract to any other bidder without risk of successful legal challenge.

The considerations to be taken into account by the decision-maker are dealt with in the Report.

The recommendation is consistent with the Policy Framework and within the remit of the Executive if it is within the budget.

4. Resource Comments:

Subject to confirmation of central government funding of £49.950m, sufficient resources have been agreed as part of the currently approved budget and future years' capital programme to meet the expected cost of this contract. There is also a capital unallocated budget and earmarked reserves available to meet additional costs should they arise due to the delay in the delivery of this scheme.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The report will be considered by the Highways and Transport Scrutiny Committee at its meeting on 24 October 2016. Any comments from the Committee will be presented to the Executive.

d) Policy Proofing Actions Required

n/a

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Plan showing the route of the Lincoln Eastern Bypass

7. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application L/0110/13 and accompanying documents	http://www.lincolnshire.gov.uk/residents/environment-and-planning/lincolnshire-county-councils-planning-portal/
Planning Application PL/0194/14 and accompanying documents	http://www.lincolnshire.gov.uk/residents/environment-and-planning/lincolnshire-county-councils-planning-portal/
Compulsory Purchase and Side Roads Order documentation	https://www.lincolnshire.gov.uk/transport-and-roads/roadworks-and-improvement-schemes/lincoln-eastern-bypass/compulsory-purchase-order-and-ancillary-orders/

This report was written by Lee Rowley, who can be contacted on 01522 555587 or lee.rowley@lincolnshire.gov.uk