

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	12 December 2023
Title:	M27 Junction 10 Update Report
Report From:	Director of Universal Services

Contact name: Chris Peake

Email: chris.peake@hants.gov.uk

Purpose of this Report

1. This report updates Cabinet on the progress made since the decision of 13 July 2021, and sets out the current position and emerging financial position for the project and highlights the associated risks which will need to be mitigated if the County Council is to continue in the role of delivery body. It also seeks to delegate authority to the Director of Corporate Operations to undertake the end of stage cost review and to assess whether the County Council is able to continue into the construction phase as delivery body, or whether it should withdraw.

Recommendations

2. That Cabinet notes the progress made since the previous Cabinet decision of 13 July 2021, the Project Appraisal of 23 September 2021 and also the emerging financial picture. The provisional target price for the construction phase is expected to be available in January 2024 and will be subject to formal acceptance by both the County Council and VolkerFitzpatrick.
3. That Cabinet delegates authority to the Director of Corporate Operations, in consultation with the Leader and Chief Executive, to review the forecast total project cost once the target price is known and, if necessary, to write to key stakeholders including Homes England, Welborne Land Limited, Fareham Borough Council, Department for Levelling Up Homes and Communities, National Highways and Department for Transport stating the value of the additional funding that will be required to enable the County Council to continue as delivery body into the construction phase, together with a date by which it must be secured in order to avoid the construction programme becoming undeliverable.
4. Once final technical approval of the design has been received from National Highways along with a letter giving the County Council authority to execute the

works on the Strategic Road Network, that Cabinet delegates authority to the Director of Corporate Operations, in consultation with the Leader and Chief Executive, to undertake the end of stage cost review, and agree that the County Council should proceed into the construction phase as delivery body.

5. Should sufficient funds not be secured in the required timescale, meaning that the County Council is unable to continue as delivery body for the Junction 10 project, that a further report is presented to Cabinet, recommending that the County Council formally withdraw from the project.
6. That Cabinet notes the addition of a new Emergency Area on the M27 to the scope of the project at the request of National Highways, and that National Highways has agreed to meet all costs associated with this addition. That Cabinet approves the consequent increase in the overall project budget and the value of the project in the capital programme.

Executive Summary

7. Welborne Garden Village is a key part of Fareham Borough Council's local plan, the Council's vision being a new community that is set apart from, but still connected to Fareham. Up to 6,000 dwellings will be built along with a new district and village centre, retail and community facilities, a public house, a hotel, over 100,000m² of employment space, health and veterinary facilities, pre-schools, a secondary school, three primary schools, new amenity spaces, woodland areas, allotments, and wildlife corridors. The project represents substantial investment in the local area and will yield significant economic growth and local regeneration.
8. To support the development new transport infrastructure will be provided including a completely re-modelled M27 Junction 10, improvements to the existing A32 and also new cycleways and pedestrian networks. The existing M27 Junction 10 has restricted access allowing only east-bound on and west-bound off movements. To facilitate full access to the significant Welborne site and ensure that traffic capacity at adjacent junctions is not adversely impacted, an improved all-moves junction is to be constructed which will include a new underpass beneath the M27 motorway. This will be a very significant and complex civil engineering project that is being funded by third parties.
9. The County Council has been working with stakeholders to bring this proposal to fruition and since 2021 has been acting in the role of delivery body for the M27 Junction 10 improvement. The design and approvals stage for this project is nearing completion and the forecast construction costs are expected to become known early in 2024. Before proceeding into the construction phase, the County Council needs to be assured that the funding available is sufficient to cover the forecast costs and risks before committing to continue in the role of delivery body. This report sets out the necessary evaluation and decision-making process in order to provide that assurance, and to enable a decision to be made.

10. A procurement process was undertaken in 2022 and this resulted in a two-stage design and build contract being awarded to VolkerFitzpatrick. They have now completed the detailed design and the approval of this by National Highways is expected to be finalised by mid-January 2024. Following this, the County Council can commence the end of stage cost review and, if necessary, look to secure additional funding from stakeholders or Government before formally deciding whether to proceed into the construction phase, and subsequently award Stage 2 of the construction contract, or to withdraw from the project.
11. The Contract is using an established target price mechanism for the construction works, and this is combined with a pain/gain mechanism to incentivise good cost management, value engineering and innovation. The target price is expected to be available in January 2024 and this will be subject to formal ratification by both parties. VolkerFitzpatrick will require approval from their main board, which is based in the Netherlands. If the target price is not agreed at that time, further negotiation may be necessary.
12. It is anticipated that the forecast costs, plus appropriate contingencies will be above the current funding envelope which already assumes use of a capped developer contingency of £10m. Using this contingency will further reduce affordable housing provision on the development from a minimum of 10% to 7.3% (subject to viability reviews). This report also seeks delegated authority for key stakeholders to be approached, once the target price is known, to secure sufficient funding to cover the scheme plus appropriate contingencies, and also to reinstate the previously agreed 10% minimum level of affordable housing levels for the development.
13. An appendix to this report provides detailed financial and legal information as context for these recommendations. The appendix has been made exempt on the grounds that it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972, being information relating to the financial or business affairs of any particular person (including the Authority holding that information). Further, it is considered that, in all the circumstances, the public interest in maintaining this exemption outweighs the public interest in disclosing this information.

Progress since Cabinet 13 July 2021

14. Since the Cabinet decision of 13 July 2021, the stated conditions that were required to be met prior to proceeding toward delivery have been met as follows:
 - a) Recommendation 2.2 required confirmation of the full funding package of £97.550 million. This has been secured.
 - b) Recommendation 2.3 required a Memorandum of Understanding and a Section 6 Agreement with National Highways (formerly Highways England). Both have been secured.

- c) Recommendation 2.7 required a Project Appraisal to be approved before entering into a Contract for the works. This was approved on 23 September 2021.

Forecast Total Project Costs – December 2023

15. The forecast total project costs will comprise:
- the target price for Stage 2 of the construction Contract with Volker Fitzpatrick;
 - costs payable to National Highways;
 - the forecast cost of utility diversions required for the project;
 - the forecast costs that will be directly incurred by the County Council; and
 - an appropriate contingency sum to cover risks held by the County Council.

The Target Price

16. The target price comprises the total of all the sub-contract package prices, the price of the services delivered directly by the contractor and a risk sum to cover risks held by VolkerFitzpatrick. The sub-contract package prices are effectively a fixed-price and there is no mechanism for inflationary increases to these prices.

Costs Payable to National Highways

17. The County Council is obliged to pay the costs incurred by National Highways associated with the delivery of this project, as stated in the Section 6 and 8 Agreement, with the exception of the costs associated with the additional Emergency Area which are to be met in full by National Highways.

Utility Costs

18. Utility costs for the delivery of the project will be paid directly by the County Council to ensure the project will benefit from the discount to which it is entitled as a Highway Authority, and to avoid the addition of fees by the Contractor

Hampshire County Council Costs

19. These are the costs directly incurred by the County Council in managing and supervising the works, including the formal handover and adoption processes by both Hampshire County Council and National Highways.

Contingency Sum

20. The contingency sum is to be based on the risks to which the County Council could be exposed during the construction phase, which are summarised in the Risks section below.
21. The value of the contingency sum required cannot be finalised until the formal approval of the design has been secured and the target price has been agreed by both organisations.

Forecast Total Project Costs

22. Robust figures for all elements will be required before the end of stage cost review can be commenced

Finance

23. Confidential Financial and Legal information is included in the exempt appendix.

Risk

24. The contract model being used for this project is a design-and-build approach using a target price contract with a pain/gain mechanism, and places much of the risk with the contractor, and a price for holding these risks is incorporated within the target price. As a result, the County Council will be exposed to fewer risks than it would be on many other major projects in the Capital Programme. Nevertheless, it is important to understand these risks and the potential exposure to which they could lead.
25. Risks that rest with the contractor include:
 - Design changes or correction of design errors.
 - Performance of all sub-contractors.
 - Unforeseen ground conditions that are not man-made.
 - Uncharted services.
 - Dealing with accidents, incidents and claims within the site on both M27 and HCC roads during the works.
26. Risks that rest with the County Council and are to be covered by the contingency sum include:
 - cost increases caused by changes in the law.
 - weather events that are less frequent than one in ten years.

- failure of HCC to adhere to the timescales required by the contract or the programme.
 - dealing with the actions of protestors.
 - man-made obstructions or contamination that could not have reasonably been foreseen.
 - voids (sinkholes) greater than 100m³ in volume.
27. Application of the pain/gain mechanism within the contract could lead to an additional cost, to be borne by the County Council, or a saving. This is a common mechanism used with target price contracts and it is designed to incentivise the parties to work together to effectively manage costs as any benefits (savings) are shared. The disadvantage of this contract model is that in cases where costs over-run the additional cost is also shared.

Next Steps

28. The next important stage before moving to the end of stage cost review is receiving the detailed design cost estimate that is currently being prepared by VolkerFitzpatrick. Given the inflationary increases that have been experienced in the project over the last couple of years, this has already eroded the layers of contingency that were built in when the project was approved in July 2021.
29. Once the detailed design cost estimate has been received from VolkerFitzpatrick, and forecast total project costs are determined, the County Council will need to consider what further contingencies are required to ensure that it has mitigated against future cost overruns as it did with the original cost estimates in July 2021. Furthermore, it should be noted that the current funding package includes the assumed use of a developer capped contingency of £10m which will negatively impact on the level of affordable housing. In considering the total funds required to proceed with the scheme, requests to stakeholders will include reinstatement of this sum to maintain the previously agreed 10% minimum level of affordable housing for the development.
30. It is extremely unlikely that the project funding currently in place will be sufficient to create the necessary level of headroom within the project to allow the County Council to proceed as delivery body and, as with the original approval, will be seeking further funding from the different stakeholders to achieve this. The recommendations in this report therefore delegate authority to the Director of Corporate Operations in consultation with the Leader and Chief Executive to write to stakeholders including Homes England, Welborne Land Limited, Fareham Borough Council, Department for Levelling Up Homes and Communities, National Highways and Department for Transport stating the value of the additional funding that is required to allow the County Council to continue as delivery body into the construction phase.

31. In addition, following a visit by Rt Hon Michael Gove MP, Secretary of State for Levelling Up, Housing and Communities to the Welborne development, he indicated the importance he placed on the scheme. Further representations will also be made directly to him to help secure the necessary funding.
32. If the County Council is unable to secure the necessary headroom to enable it to mitigate the impact of a cost overrun then it will not proceed beyond the end of stage cost review which is planned for early 2024.

Communications

33. Communications to date have been largely led by Fareham Borough Council, as part of the planning process for Welborne, and by Buckland Development Ltd, the planning applicant, for Welborne and M27 Junction 10. Should the M27 Junction 10 scheme progress into the construction stage any communications on this element of the Welborne project will be led by the County Council.
34. In June 2023 the Secretary of State for Levelling Up, Housing & Communities, the Rt Hon Michael Gove MP and the Rt Hon Suella Braverman, MP for Fareham, visited the site as part of the commencement of the delivery stage for the wider Welborne project and both provided very strong and positive support for the development and its broader aims and objectives. They also met privately with Councillors Humby and Woodward. On 24 July 2023 Mr Gove delivered a speech, as Secretary of State, on his 'Long-term plan for Housing' and he specifically cited Welborne as an "outstanding" project.

Consultation and Equalities

35. Plans to improve M27 Junction 10 have evolved over the last 15 years as an integral part of the development of Welborne Garden Village, proposed by Fareham Borough Council in their Welborne Plan and promoted by Buckland Development Limited as planning applicant. The majority of the comprehensive and extensive, statutory and non-statutory consultations related to Welborne to date have been led by Fareham Borough Council and Buckland Development Ltd, and these have included iterative adjustments to the design including the nature and layout of a revised Junction 10. The wide range of consultees included equality and disability groups.
36. The approved planning application has informed the final design for the project which includes provision for pedestrians and cyclists as well as a section of bridleway. There is no community severance created by the junction and new links are created to connect south via the new underpass to Fareham town centre, bus and rail stations.
37. The recommendations of this report relate to procedural matters and their impact has been assessed as neutral. When the Scheme is delivered, it will benefit all transport users, catering for cars, Bus Rapid Transit links, and

including new and improved existing pedestrian and cycle provision. It will provide the key access to Welborne Garden Village and associated 6000 new homes and 5000 new jobs with enhanced connectivity to the local and strategic transport networks alongside improved connectivity for all across the M27, which will benefit the whole local community in Fareham. A full raft of statutory and non-statutory public consultation has taken place on the scheme and a full EQIA has been produced as part of this in a format consistent with National Highways projects.

Climate Change Impact Assessments

38. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.

Climate Change Adaptation

39. Following assessment using the Adaptation Tool, the project is not considered to be vulnerable to climate change. The design has been executed in line with the requirements of Hampshire County Council as Statutory Lead Local Flood Authority and the latest guidance from the Environment Agency. Appropriate storm return periods, with designs allowing for a one in a 100 year storm where appropriate, have been applied, with the latest climate change allowance included in accordance with Environment Agency requirements. The drainage system ensures there is no increase in the rate of runoff discharged from the site, and on-site flooding is contained within the specially designated areas, removing the risk to people and property. There are no identified risks from extreme heat and storms.
40. The scheme will ensure that Hampshire maintains strong and sustainable economic growth and prosperity and supports priorities for improving wellbeing and health through inclusion of new footways and cycle tracks to encourage active travel.

Carbon Mitigation

41. Comprehensive Carbon Assessment Reports have been prepared for the scheme at the design stage in accordance with National Highways templates. These focus on the need to reduce Green-House Gas (GHG) emissions in line with PAS 2080:2023 guidance to minimise emissions associated with the construction of the scheme.

42. The construction stages of the scheme will involve heavy vehicles moving significant earth works to create embankments and an underpass. Mitigation will seek to ensure that cut and fill movements are limited with as much re-use and disposal on adjacent land as possible to reduce emissions. Emissions will be further mitigated by additional tree and scrub planting, over and above that which will need to be removed during the works phase of the scheme.
43. During the operational stage of the scheme, emissions associated with existing trips and journeys will be reduced, with shorter journeys facilitated by improved access to the M27 from Fareham. The scheme will cater for more sustainable modes of transport, providing enhanced accessibility across the M27 for walking and cycling towards Fareham town centre and bus and rail stations, and the scheme also allows for dedicated Bus Rapid Transit links into the garden village development.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Other Significant Links

Links to previous Member decisions:	
<u>Title</u>	<u>Date</u>
EMET – M27 Junction 10	15 Jan 2019
EMETE – M27 Junction 10 Update	14 Jan 2020
Cabinet – M27 Junction 10 Scheme Update	29 Sept 2020
Cabinet – M27 Junction 10 Project Review	9 Feb 2021
Cabinet – M27 Junction 10 Welborne	13 July 2021
ELMETE – M27 Junction 10 Project Appraisal	23 Sept 2021
Direct links to specific legislation or Government Directives	
<u>Title</u>	<u>Date</u>

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
Fareham Borough Council Planning Decision on Welborne Garden Village	Planning Portal / Fareham Borough Council website

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);

Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;

Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;

Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;

Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

The recommendations of this report relate to procedural matters and their impact has been assessed as neutral. When the Scheme is delivered, it will benefit all transport users, catering for cars, Bus Rapid Transit links, and including new and improved existing pedestrian and cycle provision. It will provide the key access to Welborne Garden Village and associated 6000 new homes and 5000 new jobs with enhanced connectivity to the local and strategic transport networks alongside improved connectivity for all across the M27, which will benefit the whole local community in Fareham. A full raft of statutory and non-statutory public consultation has taken place on the scheme and a full EQIA has been produced as part of this in a format consistent with National Highways projects.